

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE  
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

IN THE MATTER OF AN APPEAL )  
FILED BY: )  
 ) PACIFIC  
SOUTHWEST FARMS, )  
 TO )  
A DECISION BY THE: )  
SAN BERNARDINO COUNTY )  
INDEPENDENT HEARING PANEL. )  
\_\_\_\_\_ )

DATE AND TIME: THURSDAY, MAY  
29, 1997  
9:30 A.M.

PLACE: BOARD ROOM  
8800 CAL CENTER  
DRIVE  
SACRAMENTO,  
CALIFORNIA

REPORTER: BETH C. DRAIN,  
RPR, CSR  
7152  
CERTIFICATE NO.

BRS FILE NO.: 40142

APPEARANCES

MR. DANIEL G. PENNINGTON, CHAIRMAN  
MR. ROBERT C. FRAZEE, VICE CHAIRMAN  
MR. WESLEY CHESBRO, MEMBER  
MS. JANET GOTCH, MEMBER  
MR. STEVEN R. JONES, MEMBER  
MR. PAUL RELIS, MEMBER

STAFF PRESENT

MR. RALPH CHANDLER, CHIEF EXECUTIVE OFFICER  
MS. KATHRYN TOBIAS, LEGAL COUNSEL

MS. MARLENE KELLY, BOARD SECRETARY

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ITEM 46: PUBLIC HEARING FOR CONSIDERATION OF AN APPEAL FROM A DECISION OF THE SAN BERNARDINO COUNTY SOLID WASTE INDEPENDENT HEARING PANEL FILED BY PACIFIC SOUTHWEST FARMS.		
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1                   SACRAMENTO, CALIFORNIA; THURSDAY, MAY 29, 1997

2                                   9:30 A.M.

3

4                   CHAIRMAN PENNINGTON:   GOOD MORNING.   AND  
5                   WELCOME TO THE CALIFORNIA INTEGRATED WASTE  
6                   MANAGEMENT BOARD'S APPEAL PUBLIC HEARING.   I'D  
7                   LIKE TO CALL THE BOARD TO ORDER AND ON THIS -- FOR  
8                   THE CONSIDERATION OF AN APPEAL FILED BY PACIFIC  
9                   SOUTHWEST FARMS OF THE DECISION BY THE SAN  
10                  BERNARDINO COUNTY LOCAL HEARING PANEL TO UPHOLD  
11                  THE NOTICE AND ORDER ISSUED BY THE SAN  
BERNARDINO

12                  COUNTY LOCAL ENFORCEMENT AGENCY.

13                               THIS IS SOMEWHAT OF A NEW  
PROCEDURE

14                  FOR US.   THIS IS -- SO WE'RE GOING TO HAVE SOME  
15                  TIGHT RULES, AND I WOULD LIKE -- FIRST, WE'RE  
16                  GOING TO CALL THE ROLL, AND THEN WE'RE GOING TO  
17                  HAVE AN EXPLANATION OF THE HEARING PROCEDURES  
AND

18                  THE GROUND RULES THAT WE'LL APPLY TO BY OUR  
CHIEF

19                  COUNSEL AND OUR STAFF COUNSEL AND THEN WE'LL  
20                  PROCEED.

21                               SO IF THE SECRETARY WILL CALL THE  
22                  ROLL, PLEASE.

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23 BOARD SECRETARY: BOARD MEMBER CHESBRO.

24 BOARD MEMBER CHESBRO: HERE.

25 BOARD SECRETARY: FRAZEE.

1                   BOARD MEMBER FRAZEE:   HERE.  
2                   BOARD SECRETARY:   GOTCH.  
3                   BOARD MEMBER GOTCH:   HERE.  
4                   BOARD SECRETARY:   JONES.  
5                   BOARD MEMBER JONES:   HERE.  
6                   BOARD SECRETARY:   RELIS.  
7                   BOARD MEMBER RELIS:   HERE.  
8                   BOARD SECRETARY:   CHAIRMAN PENNINGTON.  
9                   CHAIRMAN PENNINGTON:   HERE.   QUORUM IS  
10           PRESENT.  
11                               ASK IF ANYBODY HAS ANY LATE EX  
12           PARTES THAT THEY NEED TO NOTIFY US OF.  
13                   BOARD MEMBER FRAZEE:   NONE FOR ME.  
14                   BOARD MEMBER CHESBRO:   JUST CHECKING ON  
15           WHETHER I DID THE MEETING WITH THE  
16           REPRESENTATIVES  
17           OF SAN BERNARDINO COUNTY, WHETHER I DID THE  
18           WRITTEN EX PARTE.   LET ME VERBALLY SAY THAT I  
19           MET  
20           WITH REPRESENTATIVES OF SAN BERNARDINO COUNTY  
21           AND  
22           THE LEA.  
23                   CHAIRMAN PENNINGTON:   WELL, WE HAVE A  
24           LETTER THAT CAME YESTERDAY THAT I THINK WE NEED  
25           TO  
26           EX PARTE FROM RAINBOW DISPOSAL.   AND I ALSO MET

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23                WITH RITA LAVELLE AND BOB FESTA THIS MORNING  
24                CONCERNING THE HEARING.  
25                        NOW I'D LIKE HAVE OUR CHIEF  
COUNSEL

1 GIVE US AN OVERVIEW HERE.

2 MS. TOBIAS: THANK YOU, CHAIRMAN  
3 PENNINGTON. BEFORE I TURN THIS OVER TO ELLIOT  
4 BLOCK TO SPEND A LITTLE BIT MORE TIME GOING OVER  
5 THE DETAILS OF THE HEARING THIS MORNING, I WOULD  
6 LIKE TO INDICATE THAT THIS IS AN APPEAL FROM THE  
7 LEA. IT CONCERNS A VERY NARROW ISSUE BEFORE THE  
8 BOARD TODAY.

9 AND DUE TO THAT, AND DUE TO THE FACT  
10 THAT IT IS AN APPEAL BY AN APPLICANT WITH A  
11 PERMIT, WE'RE TREATING THIS AS A QUASI JUDICIAL  
12 HEARING. THEREFORE, THE PARTIES HAVE BEEN ASKED  
13 TO SUBMIT THEIR WITNESSES IN ADVANCE, AND THE  
14 HEARING WILL BE LIMITED TO THE WITNESSES THAT HAVE  
15 BEEN SPECIFIED. SO THIS IS NOT A PUBLIC HEARING  
16 IN THE USUAL SENSE OF THE USUAL BOARD MEETINGS.  
17 ELLIOT.

18 MR. BLOCK: VERY BRIEFLY, I WANT TO GO  
19 OVER SOME GROUND RULES THAT THE PARTIES HAVE  
20 DEVELOPED IN COORDINATION WITH THE PARTIES SINCE  
21 WE DON'T HAVE PROCEDURES AND REGULATIONS AT THIS  
22 POINT IN TIME AND THEN PROVIDE A LITTLE BIT OF  
23 CLARIFICATION AROUND THE STAFF ANALYSIS THAT WAS  
24 ALSO PROVIDED TO THE PARTIES AND THE BOARD MEMBERS  
25 LAST WEEK.



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1 AS MS. TOBIAS INDICATED, THE PARTIES  
2 HAVE ALREADY SUBMITTED WRITTEN ARGUMENTS AND  
3 DOCUMENTS FOR THE RECORD TO THE BOARD. THE BOARD  
4 MEMBERS EACH HAVE A COPY OF ALL OF THOSE DOCUMENTS  
5 AND RELATED DOCUMENTS, SUCH AS COPIES OF VARIOUS  
6 REGULATIONS AND STATUTES THAT ARE RELEVANT, IN  
7 SOMETHING THAT I'VE CALLED A HEARING NOTEBOOK.

8 EACH OF THE PARTIES WILL BE MAKING  
9 PRESENTATIONS TO THE BOARD AND THEY INCLUDE  
10 WITNESSES. I BELIEVE THEY EACH HAVE INDICATED  
11 THEY HAVE TWO WITNESSES IN ADDITION TO THEIR  
12 INITIAL PRESENTER. THE COUNTY OF SAN BERNARDINO  
13 HAD ESTIMATED APPROXIMATELY ABOUT AN HOUR FOR  
14 THEIR PRESENTATION, AND PACIFIC SOUTHWEST FARMS  
15 HAD INDICATED APPROXIMATELY ABOUT HALF AN HOUR.

16 ALTHOUGH THE PARTIES WILL HAVE  
17 WITNESSES, THE PARTIES WILL NOT BE CROSS-EXAMINING  
18 EACH OTHER. THE BOARD MEMBERS, OF COURSE, WILL BE  
19 ABLE TO ASK QUESTIONS OF EACH PERSON TESTIFYING AT  
20 THE CLOSE OF THEIR TESTIMONY. EACH PARTY --  
21 PACIFIC SOUTHWEST FARMS WILL, OF COURSE, GO FIRST.  
22 THEY'RE THE APPELLANT. THE COUNTY WILL THEN HAVE  
23 A CHANCE TO MAKE THEIR PRESENTATION, AND THEN EACH  
24 SIDE WILL HAVE A CHANCE TO PROVIDE SOME REBUTTAL  
25 TO THOSE PRESENTATIONS.

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1                   AFTER THOSE PRESENTATIONS ARE  
2                   CONCLUDED, I MAY HAVE SOME ADDITIONAL INFORMATION,  
3                   IF APPROPRIATE, TO ADD BASED ON THE STAFF ANALYSIS  
4                   THAT YOU'VE BEEN PROVIDED WITH. AS INDICATED,  
5                   WE'RE NOT GOING TO BE ACCEPTING PUBLIC COMMENT  
6                   OTHER THAN COMMENT FROM THE PARTIES AND THEIR  
7                   WITNESSES.

8                   ALTHOUGH THIS HEARING WILL NOT BE  
9                   CONDUCTED ACCORDING TO THE TECHNICAL RULES OF  
10                  EVIDENCE, THE BOARD WILL ONLY BE ACCEPTING  
11                  TESTIMONY THAT'S REASONABLY RELEVANT TO THE ISSUES  
12                  AT HAND AND NOT REPETITIVE. AND THE PARTIES HAVE  
13                  BEEN ASKED TO LIMIT THEIR PRESENTATIONS TO THEIR  
14                  ESTIMATED TIME THAT I INDICATED EARLIER, NOT  
15                  INCLUDING BOARD MEMBER QUESTIONS OBVIOUSLY.

16                 THOSE ARE SORT OF THE GROUND RULES.  
17                 VERY QUICKLY, IN TERMS OF THE GROUND RULES THAT  
18                 THE STATUTE PROVIDES, STATUTE PROVIDES THAT FOR  
19                 THIS APPEAL THE ADMINISTRATIVE RECORD ON THE  
20                 APPEAL WILL INCLUDE THE RECORD BEFORE THE HEARING  
21                 PANEL, THE RECORD BEFORE THE LEA, AND ANY OTHER  
22                 RELEVANT EVIDENCE AS DETERMINED BY THE BOARD. AND  
23                 AS FAR AS WE KNOW, THOSE ITEMS HAVE BEEN INCLUDED  
24                 IN THE HEARING NOTEBOOKS THAT YOU'VE BEEN PROVIDED  
25                 WITH, THE WRITTEN ARGUMENTS FROM THE PARTIES, AND

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1 THE DOCUMENTS THAT THEY HAVE SUBMITTED.

2 AS YOU ARE LISTENING TO THE  
3 TESTIMONY AND REVIEWING THE DOCUMENTS THEMSELVES,  
4 WE NEED TO KEEP IN MIND THE STANDARD OF REVIEW  
5 THAT THE STATUTE PROVIDES, WHICH IS THAT THE BOARD  
6 MAY ONLY OVERTURN ENFORCEMENT ACTION BY AN LEA, IN  
7 THIS CASE AS UPHELD BY THE HEARING PANEL DECISION,  
8 IF IT FINDS, BASED ON SUBSTANTIAL EVIDENCE IN THE  
9 RECORD, THAT THE ACTION WAS INCONSISTENT WITH THE  
10 BOARD'S STATUTES OR REGULATIONS.

11 IN ADDITION TO SOME OF THOSE  
12 PROCEDURAL ISSUES, I NEED TO JUST VERY QUICKLY  
13 CLARIFY A COUPLE OF THE QUESTIONS THAT HAVE COME  
14 UP BASED ON THE STAFF ANALYSIS THAT I DID PRESENT,  
15 AND I'M GOING TO ENDEAVOR NOT TO GET INTO THE  
16 DETAILS OF THE PARTIES' POSITIONS BECAUSE  
17 OBVIOUSLY THEY'RE PREPARED TO DISCUSS THOSE WITH  
18 YOU TODAY.

19 VERY QUICKLY, THOUGH, ON PAGE 1 OF  
20 THE STAFF ANALYSIS, I IN SUMMARY FORM INDICATED  
21 WHAT THE BOARD OPTIONS WERE. ONE OPTION WOULD BE  
22 TO UPHOLD THE HEARING PANEL DECISION, AND ONE  
23 OPTION WOULD BE TO MODIFY THE HEARING PANEL  
24 DECISION. AND I USE THE TERM "MODIFY," WHICH  
25 APPARENTLY HAS CAUSED SOME CONFUSION.

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1                   BASED ON THE STANDARD OF REVIEW THAT  
2           I WENT OVER JUST BEFORE, THE BOARD HAS THE ABILITY  
3           TO OVERTURN A HEARING PANEL DECISION IF IT FINDS  
4           THAT THE ACTION IS INCONSISTENT WITH THE BOARD  
5           STATUTES AND REGULATIONS. I USED THE TERM  
6           "MODIFY" BECAUSE THE APPEAL BEFORE YOU TODAY IS AN  
7           APPEAL OF ONLY A PORTION OF THE HEARING PANEL  
8           DECISION; AND, THEREFORE, I USED THE TERM "MODIFY"  
9           IN A SHORTHAND. I COULD HAVE USED THE PHRASE  
10          "OVERTURN THAT PORTION OF THE HEARING PANEL  
11          DECISION THAT HAS BEEN APPEALED," AND THERE HAS  
12          BEEN CONCERN THAT I'VE SOMEHOW INDICATED THAT THIS  
13          STANDARD IS NOT THE STANDARD APPLIED.

14                   THE STANDARD THAT'S ON YOUR MONITORS  
15          IS, IN FACT, THE STANDARD. SO IF THE BOARD WANTED  
16          TO MODIFY A PORTION OF THE HEARING PANEL DECISION,  
17          THOSE PORTIONS THAT HAVE BEEN APPEALED, IT WOULD  
18          NEED TO BE BASED ON MEETING THIS STANDARD.

19                   THE SECOND CLARIFICATION I NEED TO  
20          OFFER RELATES TO THE OPTIONS THAT WERE PROVIDED  
21          FOR THE BOARD IN THAT AGENDA IN THAT STAFF  
22          ANALYSIS. AS PROVIDED IN THE ANALYSIS, THIS  
23          DECISION REALLY REVOLVES AROUND AN INTERPRETATION  
24          OF WHAT THE DEFINITION OF TRANSFER PROCESSING  
25          STATION MEANS AND MORE PARTICULARLY AROUND THE



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1 PHRASE "SEPARATED FOR USE" THAT APPEARS IN AN  
2 EXCEPTION TO THE DEFINITION OF TRANSFER PROCESSING  
3 STATION.

4 IN PROVIDING OPTIONS FOR THE BOARD  
5 IN THE STAFF ANALYSIS, I PROVIDED THREE OPTIONS.  
6 OPTION 1 IS TO ACCEPT THE APPELLANT'S POSITION AS  
7 TO THE INTERPRETATION OF THE STATUTE. OPTION 2  
8 ESSENTIALLY WOULD BE TO ACCEPT THE COUNTY'S  
9 INTERPRETATION OF THE STATUTE.

10 OPTION 3 WAS PROVIDED PRIMARILY IN  
11 AN ATTEMPT TO PROVIDE SOME CONTEXT FOR THE BOARD  
12 IN TRYING TO ANALYZE AND INTERPRET THIS STATUTE.  
13 THE BOARD, AS SOME OF YOU KNOW THAT WERE ON THE  
14 BOARD DURING THAT TIME, SPENT ABOUT TWO YEARS  
15 WORKING ON DECIDING WHAT THE TERM "SEPARATED FOR  
16 REUSE MEANS," AND THE RESULT OF THAT WAS THE  
17 TWO-PART TEST WHICH INCLUDED THE 10-PERCENT  
18 RESIDUAL TEST.

19 AND SO THAT ENDED UP BEING, OF  
20 COURSE, THE STAFF RECOMMENDATION BECAUSE IT WAS  
21 CONSISTENT WITH SOME DECISIONS THE BOARD HAD MADE  
22 IN THE PAST. I NEED TO MAKE VERY CLEAR THAT IT IS  
23 LISTED ONLY AS AN OPTION BECAUSE THE BOARD IS FREE  
24 TODAY TO CHOOSE ANY ONE OF THOSE THREE OPTIONS AND  
25 TO MODIFY EXACTLY WHY THEY'RE PICKING ONE OF THOSE

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25 BOARD CAN CHOOSE ANY ONE OF THOSE THREE OPTIONS,

1           AND THEY'RE NOT BOUND BY WHAT WAS A POLICY THAT  
2           THE BOARD ADOPTED. THAT WAS PROVIDED, AGAIN, SO  
3           THAT SOME HISTORICAL CONTEXT IS USED AS YOU  
4           CONSIDER THE TESTIMONY THAT YOU HEAR TODAY.

5                         WITH THAT CLARIFICATION, I'VE  
6           COMPLETED MY COMMENTS, AND I KNOW THE PARTIES ARE  
7           PRETTY ANXIOUS TO PROVIDE THEIR TESTIMONY TO YOU.  
8           PACIFIC SOUTHWEST FARMS AS THE APPELLANT, OF  
9           COURSE, WILL BE GOING FIRST. AND I BELIEVE THAT  
10          THE CHAIRMAN HAS THE NAMES OF THE WITNESSES THAT  
11          THEY'D LIKE TO USE.

12                        CHAIRMAN PENNINGTON: I DO. AND I WOULD  
13          ASK THAT ALL PARTIES AND THEIR WITNESSES HERE TO  
14          TESTIFY THIS MORNING PLEASE STAND WHILE THE COURT  
15          REPORTER ADMINISTERS THE OATH TO YOU.

16  
17                        PROSPECTIVE WITNESSES,  
18          CALLED AS WITNESSES, AND HAVING BEEN FIRST DULY  
19          SWORN BY THE CERTIFIED SHORTHAND REPORTER,  
20          TESTIFIED AS FOLLOWS:

21  
22                        CHAIRMAN PENNINGTON: OKAY. THANK YOU.  
23          WE'LL START WITH PACIFIC SOUTHWEST FARMS, BARRY  
24          MEIJER.

25                        MR. MARTINEZ: MR. CHAIRMAN, THERE'D

BE A

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1 CHANGE IN ORDER IN SPEAKERS. MY NAME IS UVALDO  
2 MARTINEZ. I DON'T THINK YOU MISTOOK ME FOR MR.  
3 MEIJER; BUT NONETHELESS. MAYBE I DO LOOK LIKE I'M  
4 FROM SOUTH AFRICA.

5 IT'S GOING TO BE VERY HARD NOT TO  
6 CONFORM WITH THE OATH WE JUST TOOK BECAUSE MY  
7 WHOLE DISCUSSION WILL BE BASED ON THE STAFF  
8 REPORT. OUR PRESENTATION WILL BE VERY BRIEF AND  
9 HOPEFULLY WE DON'T TAKE A HALF HOUR. OUR CASE IS  
10 VERY SIMPLE.

11 AS YOU KNOW, THE MATTER OF LAND USE  
12 HAS BEEN ADJUDICATED UNLESS THE COUNTY OF SAN  
13 BERNARDINO COUNTY APPEALS TO THE STATE SUPREME  
14 COURT, THAT, IN FACT, WE ARE AN AGRICULTURAL USE  
15 AND THAT WE DO CONFORM WITH 23.7 OF THE  
16 AGRICULTURAL CODE.

17 SO THEN THE ONLY QUESTION, AND I  
18 THINK STAFF HAS DONE A VERY GOOD JOB OF ANALYZING  
19 THE SITUATION, AND THAT IS THAT THE ONLY POINT OF  
20 DISAGREEMENT SEEMS TO BE THE 4-INCH MATERIAL  
21 THAT'S PRESENTLY ON SITE AND AT ONE TIME WAS BEING  
22 IMPORTED ONTO THE SITE FOR FURTHER PROCESSING AND  
23 FEEDING TO THE WORMS.

24 ONE OF THE THINGS THAT I WANT TO  
25 CLARIFY RIGHT NOW IS IN CITING THAT SECTION OF



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1           23.7, NOWHERE IN THAT SECTION DOES IT IDENTIFY  
2           VERMICOMPOSTING AS AN AGRICULTURAL ACTIVITY. SO  
3           FOR THE RECORD, I'D LIKE TO MAKE IT VERY CLEAR.  
4           AND I THINK THAT WE'RE JUST AS GUILTY AS ANYONE  
5           ELSE IN USING COMPOSTING AS A PART OF THE LABEL,  
6           TITLE, OF OUR ACTIVITY. WE ARE VERMICULTURE AND  
7           SPECIFICALLY DEFINED IN THAT SECTION THE SPECIES  
8           OF WORM THAT IS GENERATED AS A RESULT OF THAT  
9           ACTIVITY; AND THE THIRD PART OF IT, IT GENERATES  
10          AN AGRICULTURAL COMMODITY, WHICH IN THIS CASE WERE  
11          REFERRED AS TO WORM CASTINGS OR IN MORE GENERAL  
12          TERMS PROBABLY ORGANIC FERTILIZER. THAT'S WHAT WE  
13          DO. WE'RE AN AGRICULTURAL BUSINESS THAT PRODUCES  
14          AN AGRICULTURAL COMMODITY. NOTHING MORE, NOTHING  
15          LESS.

16                       WHY ARE WE HERE TODAY? WE'D LIKE TO  
17          BE ABLE TO FEED OUR STOCK. HOW WE FEED THAT, I  
18          GUESS, THAT'S THE QUESTION THAT'S GOING TO BE  
19          RESOLVED TODAY. AS YOU KNOW, SOME OF YOU HAVE  
20          BEEN ON SITE. I'VE MET WITH YOU ON SITE AND  
21          WALKED YOU THROUGH THE PROCESS.

22                       AT ONE POINT THE ACTIVITY, THE  
23          VERMICULTURE FACILITY, WAS, IN FACT, RECEIVING  
24          4-INCH MATERIAL, FOR LACK OF A BETTER TERM, AND  
25          ALSO INCH-AND-A-QUARTER. THE ORDER THAT WAS

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1 ISSUED IS A PART OF THE HEARING RESULTS THAT WE  
2 WERE APPEALING ORDERED TO CEASE AND DESIST OF BOTH  
3 FORMS.

4 I SEE IN STAFF'S REPORT, AND I AGREE  
5 WITH, THAT THE INCH-AND-A-QUARTER IS REALLY NOT  
6 THE ISSUE, AND IT DOES NOT FALL WITHIN THE PURVIEW  
7 OF THE PERMIT PROCESS. SO, THEREFORE, ONLY THE  
8 4-INCH MATERIAL, THEN, IS THE POINT OF DISCUSSION  
9 OR POINT OF CONTENTION HERE TODAY.

10 AND WITH THAT, WE'D JUST SAY TO YOU  
11 IT'S NOT REALLY A BONE OF CONTENTION WITH US  
12 BECAUSE OUR MATERIAL IS INCH-AND-A-QUARTER FROM  
13 NOW ON. WE'LL NOT HAVE ANY 4-INCH MATERIAL BEING  
14 IMPORTED TO THE SITE. IT DOESN'T WORK FOR US, AND  
15 IT CAUSES US EXTRA WORK IN TERMS OF PROCESSING AND  
16 CREATING THE FEED FOR OUR STOCK.

17 AND SECONDLY, IT THROWS US INTO A  
18 REVIEW PROCESS THAT, FRANKLY, WE DON'T WANT TO BE  
19 IN BECAUSE, FRANKLY, IT HAS JUST NOT BEEN APPLIED  
20 TO US EVENHANDEDLY. WE JUST DON'T WANT TO BE A  
21 PART OF THAT PROCESS.

22 WE WANT TO CONTRIBUTE TO THE  
ECONOMY

23 OF THE STATE OF CALIFORNIA AS A STATE POLICY  
24 THAT'S ARTICULATED IN THAT AGRICULTURE CODE THAT  
25 DEALS WITH VERMICULTURE. WE WANT TO PROMOTE A

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1 GROWTH INDUSTRY IN THE STATE OF CALIFORNIA. WE  
2 WANT TO PROVIDE EMPLOYMENT OPPORTUNITIES, AND WE  
3 ALSO WANT TO PROVIDE ADDITIONAL INCOME TO THE  
4 STATE OF CALIFORNIA BY EXPORTING OUR PRODUCT. IF  
5 YOU WANT INFORMATION ON MARKETING, WE CAN PROVIDE  
6 THAT A LITTLE LATER.

7 THE ONLY PROBLEM WE HAVE AT THIS  
8 POINT WITH THE RECOMMENDATION BY STAFF IS THE  
9 SECOND PART, WHICH HAS TO DO WITH THE SAMPLING AND  
10 THE TESTING OF THE PRESENT 4-INCH MATERIAL ON THE  
11 SITE.

12 MR. MEIJER IS GOING TO SUGGEST THAT  
13 PERHAPS BECAUSE OF -- I GUESS FOR THE RECORD YOU  
14 SHOULD ALSO BE ADVISED, AND I WILL AT THIS POINT  
15 ADVISE YOU, THAT THIS CASE IS STILL UNDER  
16 LITIGATION. MR. MEIJER STILL HAS AN ACTIVE CASE  
17 PENDING IN SUPERIOR COURT AGAINST THE COUNTY OF  
18 SAN BERNARDINO THAT HAS NOT BEEN RESOLVED.

19 IN CONJUNCTION WITH THAT, IF,  
20 IN  
21 FACT, THE BOARD DECIDES TO MOVE FORWARD WITH  
22 SOME  
23 TYPE OF A SAMPLING TESTING PROGRAM OF THE 4-  
24 INCH  
25 MATERIAL ON SITE, THAT IT BE DONE BY AN  
26 OBJECTIVE

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23           THIRD PARTY. WE WERE INITIALLY PROPOSING  
THAT IT

24           BE THE LEA FROM ORANGE COUNTY, BUT

SUBSEQUENT

25           DISCUSSION ON THAT PARTICULAR SUBJECT PUTS  
US IN

1 AN ARENA OF SHOPPING THE LEA'S FOR FAVORABLE  
2 RESULTS, ETC., ETC. BUT WE WOULD NOT HAVE A  
3 PROBLEM WITH AN OBJECTIVE THIRD PARTY DESIGNATED  
4 BY SOMEONE IN SOME OBJECTIVE PROCESS, WHICH IS  
5 SOMETHING WE FELT THAT HAS NOT BEEN TO THIS POINT,  
6 AND MOVING FORWARD WITH THAT PARTICULAR PORTION OF  
7 IT.

8 BUT FOR THE RECORD, WE WILL NOT BE  
9 IMPORTING ANY MORE 4-INCH MATERIAL, SO THE ONLY  
10 QUESTION WOULD THEN BE THE 4-INCH MATERIAL WHICH I  
11 THINK SOME OF YOU HAVE SEEN IN YOUR SITE VISIT ON  
12 THE SITE.

13 THERE ARE SOME PROBLEMS WITH THE  
14 ANALYSIS OF THAT BECAUSE OF THE RETENTION OF  
15 MOISTURE. AND I'M NOT GOING TO GET INTO THAT  
16 BECAUSE I HATED ORGANIC CHEMISTRY AND I'M SURE YOU  
17 DID TOO. THAT'S WHY I WENT INTO BUSINESS AND  
18 POLITICS BECAUSE YOU REALLY DON'T HAVE TO KNOW A  
19 LOT ABOUT THOSE KINDS OF THINGS AND YOU HIRE  
20 EXPERTS TO GIVE YOU THAT KIND OF INFORMATION. AND  
21 YOU'RE GOING TO HEAR IT. I MEAN OUR TAX DOLLARS  
22 AT WORK. I SEE THEM HERE. AND AS A FORMER  
23 ELECTED OFFICIAL, I KNOW HOW THAT WORKS AS WELL.  
24 WE LOOK AT THE MAPS AND WE TRY TO COME TO SOME  
25 KIND OF AN INFORMED DECISION.



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1                   FUNDAMENTAL ISSUE BEFORE YOU TODAY  
2           IS IS THIS BOARD GOING TO SUPPORT THE ARTICULATED  
3           POLICY OF THE STATE LEGISLATURE THAT SAYS THIS IS  
4           A GROWTH INDUSTRY? WE NEED TO PROMOTE IT. WE  
5           NEED TO SUPPORT IT, AND WE NEED TO PERHAPS  
6           REGULATE IT TO PROTECT THE HEALTH AND SAFETY LIKE  
7           WE DO ANY OTHER ACTIVITY. THAT'S ALL WE'RE  
8           ASKING. REGULATE US LIKE ANY OTHER AGRICULTURAL  
9           ACTIVITY.

10                   DAIRY FARMS DO NOT HAVE TO GET  
11           PERMITS FOR HAY ON SITE TO FEED THEIR STOCK. AND  
12           THE GARBAGE, THE WASTE, FOOD WASTE, THAT WE ALL  
13           SEE, THE CATTLE -- OR I GUESS THEY'RE NOT REALLY  
14           CATTLE; THEY'RE COWS, DAIRY COWS, DAIRY STOCK THAT  
15           WE SEE ADJACENT TO OUR PROPERTY ARE FEEDING ON  
16           THAT SAME WASTE. SO THAT'S ALL WE'RE ASKING.

17                   WE'RE NOT GOING TO USE ANY MORE  
18           4-INCH MATERIAL. WE DON'T WANT TO BE PART OF THE  
19           REVIEW PROCESS. INCH-AND-A-QUARTER IS OUR  
20           STANDARD. IF YOU THINK VERMICULTURE OUGHT TO BE  
21           REGULATED IN TERMS OF A THRESHOLD DEVELOPED FOR  
22           ANY FUTURE VERMICULTURAL ACTIVITIES, I THINK  
23           THAT'S FAIR AND I THINK THAT'S WITHIN THE PURVIEW  
24           OF THE BOARD. BUT I THINK IT SHOULD BE MADE

CLEAR

25           THAT AT THE INITIATION OF THIS PARTICULAR

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1           ACTIVITY, THOSE REGULATIONS WERE NOT IN PLACE.  
2           WERE NOT IN PLACE. THOSE STANDARDS WERE NOT IN  
3           PLACE.

4                         AND IT'S ONLY BEEN SINCE, WE FEEL,  
5           LEGISLATIVE PRESSURE AND OTHER KINDS OF PRESSURE  
6           BROUGHT UPON THE ENFORCEMENT STAFF SAN BERNARDINO  
7           COUNTY HAVE THOSE ISSUES BEEN BROUGHT TO THE  
8           FOREFRONT. THAT'S A TOUGH THING FOR ME TO SAY AS  
9           A FORMER ELECTED OFFICIAL, BUT I KNOW IT HAPPENS.  
10          WE ALL KNOW IT HAPPENS. SO ALL WE'RE ASKING TODAY  
11          IS THAT IT BE A FAIR PROCESS. WE DON'T WANT TO BE  
12          PART OF THAT PARTICULAR REVIEW.

13                        WE ASK THAT IF, IN FACT, YOU MOVE  
14          FORWARD WITH THE STAFF'S RECOMMENDATION AND  
15          OVERTURN THE REGULATORY AGENCY IN SAN BERNARDINO  
16          COUNTY, WHICH I THINK YOU SHOULD, AND YOU ENFORCE  
17          THE SAMPLING PORTION OF THE 4-INCH MATERIAL, THAT  
18          IT BE DONE WITHIN THE CONTEXT OF OBJECTIVITY.  
19          AND, THEREFORE, WE WOULD RECOMMEND AND SUPPORT AN  
20          OBJECTIVE THIRD PARTY DOING THAT.

21                        SO I WILL SAVE ANY FURTHER REMARKS  
22          AND SPECIFIC REMARKS FOR REBUTTAL AT A LATER TIME  
23          HOPEFULLY. AND MR. MEIJER WILL GIVE YOU HIS  
24          PERCEPTION OF WHAT HIS ORDEAL HAS BEEN AS  
25          OPERATING THAT PARTICULAR FACILITY. THANK YOU

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1           VERY MUCH.

2                   CHAIRMAN PENNINGTON:   THANK YOU.   MR.  
3           MEIJER.

4                   MR. MEIJER:   GOOD MORNING, BOARD MEMBERS.  
5           THANK YOU VERY MUCH FOR HEARING US OUT TODAY.   I  
6           APPRECIATE ALL THE WORK EVERYBODY HAS DONE TO  
7           BRING US TO THIS POINT.

8                   AS DEFINED IN THE PUBLIC RESOURCES  
9           CODE SECTION 40200, PACIFIC SOUTHWEST FARMS IS  
10          EXEMPT FROM THE PERMITS OF A TRANSFER PROCESSING  
11          STATION AS OUR FACILITY'S PRINCIPAL FUNCTION IS TO  
12          RECEIVE, CONVERT, AND STORE WASTE WHICH HAS  
13          ALREADY BEEN SEPARATED FOR REUSE AND IS NOT  
14          INTENDED FOR DISPOSAL.

15                   PACIFIC SOUTHWEST FARMS WAS UNAWARE  
16          OF THE RESIDUAL MSW TEST THAT THE BOARD AND STAFF  
17          HAVE DEVELOPED OVER THE LAST COUPLE OF YEARS.  
18          PACIFIC SOUTHWEST FARMS FEELS THAT THIS IS A VERY  
19          PRACTICAL APPLICATION TO A PROBLEM OF RESIDUALS  
20          AND RECYCLABLES.   PACIFIC SOUTHWEST FARM HAS ALSO  
21          BECOME AWARE OF THE PROPOSED DRAFT REGULATIONS TO  
22          REGULATE TRANSFER MATERIAL RECOVERY AND  
PROCESSING  
23          FACILITIES THAT WOULD PLACE, BASED ON THE  
24          RESIDUALS, ANY PROCESSING WITHIN A CERTAIN TIER

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OF

25

PERMITTING.

1                   PACIFIC SOUTHWEST FARMS CAN  
2           SUBSTANTIATE BEYOND ANY DOUBT THAT THE MATERIAL  
3           THAT WE CURRENTLY RECEIVE IS WELL WITHIN THE  
4           EXCLUDED LIMITS.   IN OCTOBER OF 1994, THREE  
5           MATERIAL RECOVERY FACILITIES SEPARATED MATERIAL  
6           FOR REUSE BY PACIFIC SOUTHWEST FARMS.   THE  
7           RESIDUAL MATERIAL WAS CALCULATED BY A CONSULTANT  
8           WE HIRED BY WAY OF SCREENING 25 TONS OF MATERIAL  
9           THROUGH A ONE-AND-A-QUARTER-INCH SCREEN.   WE  
FOUND  
10          THAT 13 PERCENT OF THE MATERIAL TO BE LARGER THAN  
11          ONE AND A QUARTER INCH, AND THIS CONSISTED MOSTLY  
12          OF PAPER.

13                   PACIFIC SOUTHWEST FARMS HAS GONE  
14          BACK AND CALCULATED THE EXACT TONNAGE THAT WE  
HAVE  
15          RECEIVED FROM THE THREE MATERIAL RECOVERY  
16          FACILITIES.   THE TOTAL TONNAGE RECEIVED IS  
218,000  
17          TONS -- EXCUSE ME -- 218,901.38 TONS FROM THE  
18          THREE MATERIAL RECOVERY FACILITIES.

19                   OF THE THREE MATERIAL RECOVERY  
20          FACILITIES -- EXCUSE ME -- OF THIS AMOUNT PACIFIC  
21          SOUTHWEST FARMS STILL HAS 40,000 TONS OF  
22          UNPROCESSED MATERIAL ON SITE.   DURING THIS TIME



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WE

23            HAVE ALWAYS ALSO RECEIVED MANURE, SAWDUST, TEA,

24            AND PLP.   PLP IS GROUND LEMON PEELS THAT COME

FROM

25            THE PROCESS OF MAKING PECTIN.

1 (INTERRUPTION IN PROCEEDINGS.)

2 MR. MEIJER: I'M JUST GOING TO GO BACK  
UP

3 A LITTLE BIT. OF THIS AMOUNT PACIFIC SOUTHWEST  
4 FARMS STILL HAS 42,000 TONS OF UNPROCESSED  
5 MATERIAL. DURING THIS TIME WE ALSO RECEIVED  
6 MANURE, SAWDUST, AND PLP. PLP IS THE GROUND  
LEMON

7 PEELS THAT COME FROM A PLANT THAT MAKES  
8 KAOPECTATE. I DON'T KNOW EXACTLY WHERE IT COMES  
9 FROM.

10 UNFORTUNATELY, BECAUSE WE DID NOT  
11 CHARGE FOR THESE MATERIALS, WE ARE LEFT TODAY  
WITH

12 ONLY ESTIMATED QUANTITIES AS AT THE TIME, WHEN WE  
13 RECEIVED THESE MATERIALS, THE STORAGE  
REQUIREMENTS

14 WERE NOT IN EFFECT; AND, THEREFORE, WE DID NOT  
15 TRACK THESE MATERIALS AS WE DO NOW.

16 MANURE FROM SUN VALLEY JERSEY  
DAIRY,

17 WHICH WE HAD TO ESTIMATE THIS AMOUNT, AND WE  
18 ESTIMATED AT 7,500 TONS. THIS ESTIMATION IS  
BASED

19 ON WHAT THE DAIRY FARMER TURNED IN TO THE  
20 CALIFORNIA WATER BOARD AS HIS ANNUAL MANURE.

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21           SAWDUST, APPROXIMATELY 5,000 TONS; TEA WASTE FOR  
22           APPROXIMATELY 500 TONS; AND THE PLP NUMBER WE  
23           DON'T REALLY KNOW, AND WE ESTIMATE THAT TO BE  
24           APPROXIMATELY 12,000 TONS.  
25                           PACIFIC SOUTHWEST FARMS HAS  
RETURNED

1 TO THE THREE MATERIAL RECOVERY FACILITIES  
2 11,712.90 TONS, MAKING THE RETURN SIX AND A HALF  
3 PERCENT AFTER DEDUCTING THE 40,000 TONS OF  
4 UNPROCESSED MATERIAL.

5 WHEN WE CALCULATED THIS AMOUNT, WE  
6 DID NOT ADD IN THE DAIRY MANURE, THE SAWDUST, THE  
7 TEA, OR THE PLP IN THIS CALCULATION. THE REASON  
8 WE DID NOT DO THAT IS IN THE PROPOSED REGULATIONS  
9 FOR TRANSFER STATIONS AND MATERIAL RECOVERY  
10 FACILITIES, THERE IS A CLAUSE IN THERE THAT  
11 SPECIFIES THAT IT WILL BE BY WASTE TYPE. SO,  
12 THEREFORE, WE'VE EXCLUDED THOSE IN OUR CALCULA-  
13 TIONS.

14 THE CONTRACTS WITH EACH OF THE THREE  
15 MATERIAL RECOVERY FACILITIES INCLUDE A CLAUSE THAT  
16 STATES, "THE COMPANY WILL SUPPLY GREEN WASTE AND  
17 ATTEMPT TO REMOVE AS MUCH FOREIGN MATERIAL FROM  
18 THE GREEN WASTE AS POSSIBLE. THIS WILL BE  
19 REVIEWED AS NEEDED TO DETERMINE HOW TO BEST

DEAL

20 WITH THE CONTAMINANTS IN THE GREEN WASTE." IT  
21 ALSO SAYS VERY CLEARLY, "NO PRODUCT SHALL BE  
22 LANDFILLED BY THE RECYCLER IN EACH OF OUR  
23 CONTRACTS."

24 IN 1996 -- EXCUSE ME -- IN JULY  
OF

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25                    1996, PACIFIC SOUTHWEST FARMS ENTERED INTO

1 DISCUSSIONS WITH THE THREE WASTE HAULERS TO DO  
2 ADDITIONAL SCREENING OF THEIR MATERIAL PRIOR TO  
3 SHIPMENT DUE TO THE PROBLEMS WITH BLOWING PLASTIC.  
4 ONE OF THE WASTE HAULERS ELECTED TO DISCONTINUE  
5 ANY SHIPPING DUE TO A CONTRACTUAL DISPUTE WITH THE  
6 TRANSPORTATION COMPANY. THE REMAINING TWO  
7 FACILITIES OVER THE NEXT FEW MONTHS COMMITTED TO  
8 CONTINUE REDUCING THE CONTAMINANT LEVELS IN THEIR  
9 GREEN WASTE.

10 IN DECEMBER OF 1996, ONE OF THE  
11 MATERIAL RECOVERY FACILITIES DISCONTINUED SHIPPING  
12 MATERIAL BECAUSE OF PRESSURE PLACED UPON THEM BY  
13 THE COUNTY OF SAN BERNARDINO. THE THIRD MATERIAL  
14 RECOVERY FACILITY TO DATE HAS INSTALLED MAGNETS AT  
15 ALL THREE CONVEYOR BELTS TO REDUCE THE AMOUNT OF  
16 METAL AND OTHER FERROUS MATERIAL FROM COMING TO  
17 THE SITE. THIS FACILITY ALSO INSTALLED AN  
18 EXTENSIVE AIR HANDLING SYSTEM TO REMOVE PLASTIC  
19 CONTAMINANTS FROM THEIR WASTESTREAM. THEY HAVE  
20 ALSO INSTALLED AN 8 BY 38 FOOT TRAMMEL TO SCREEN  
21 ALL MATERIAL DOWN TO ONE AND A QUARTER INCH PRIOR  
22 TO IT COMING TO THE FACILITY.

23 THE LOCAL ENFORCEMENT AGENCY OF SAN  
24 BERNARDINO COUNTY WAS AWARE OF PACIFIC SOUTHWEST  
25 FARMS' OPERATION FROM APPROXIMATELY JANUARY OF

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1 1995 TO SEPTEMBER OF 1996, AT WHICH TIME THE  
2 FACILITY WAS VISITED -- EXCUSE ME -- DURING WHICH  
3 TIME THE FACILITY WAS VISITED ON NUMEROUS  
4 OCCASIONS BY THE LEA STAFF. DURING THIS PERIOD OF  
5 TIME, A COPY OF A PREAPPLICATION DETERMINATION WAS  
6 SENT BY THE PLANNING DEPARTMENT TO THE LOCAL  
7 ENFORCEMENT AGENCY FOR REVIEW.

8 THE LOCAL ENFORCEMENT AGENCY WROTE  
9 US AN EXTENSIVE LETTER REQUESTING INFORMATION ON  
10 OUR OPERATIONS IN DECEMBER OF 1995, TO WHICH WE  
11 RESPONDED. IN SEPTEMBER 30, 1996, WITHOUT ANY  
12 WARNING OR DISCUSSION, WE RECEIVED A LETTER  
13 DEMANDING THAT PACIFIC SOUTHWEST FARMS FILE FOR A  
14 SOLID WASTE FACILITIES PERMIT. AT THIS TIME WE  
15 INFORMED THE LEA OF THE NEGOTIATIONS WITH THE  
16 WASTE HAULERS FOR IMPROVING THE QUALITY OF GREEN  
17 WASTE.

18 I RESPECTFULLY REQUEST THAT THE  
19 BOARD ADOPT THE STAFF'S RECOMMENDATION CONTAINED  
20 ON PAGE 11 OF THE REPORT, THAT PROVIDES FOR

REVIEW

21 OF RECORDS AND SAMPLING OF THE 4-INCH MATERIAL  
22 TO  
23 DETERMINE THE PERCENTAGE OF CONTAMINATION. I  
WOULD ALSO ASK THAT THE SAMPLING OF THE NEW



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24 MATERIAL THAT WE RECEIVE ON SITE TODAY BE TAKEN  
TO  
25 VERIFY THAT THIS MEETS THE REQUIREMENTS OF LESS

1           THAN 10-PERCENT CONTAMINATION LEVEL.   HOWEVER, I  
2           WOULD RESPECTFULLY REQUEST THAT YOU ORDER FOR AN  
3           OBJECTIVE SAMPLING AND ANALYSIS OF RECORD BY AN  
4           LEA OTHER THAN SAN BERNARDINO COUNTY.

5                       THE REASON I HAD ASKED FOR ORANGE  
6           COUNTY WAS THAT THE MATERIAL CAME FROM ORANGE  
7           COUNTY.

8                       WE ARE PRESENTLY IN LITIGATION WITH  
9           THE COUNTY OF SAN BERNARDINO, AND THEIR PARTICIPA-  
10          TION POSES A CLEAR CONFLICT OF INTEREST.   AND WHAT  
11          I'M SAYING THERE IS THAT THE COUNTY OF SAN  
12          BERNARDINO IN THEIR LAWSUIT, WHICH THEY FILED  
13          AGAINST US ON DECEMBER 9TH, USED THE SAME ATTORNEY  
14          THAT REPRESENTS THE LOCAL ENFORCEMENT AGENCY, THE  
15          PLANNING DEPARTMENT, AND THE LOCAL ENFORCEMENT  
16          AGENCY USES THE SAME ATTORNEY, AND THAT SHE FILED  
17          EXTENSIVE DOCUMENTATION FROM THE LEA IN THE  
18          DECEMBER LAWSUIT.

19                      IT SHOULD ALSO BE NOTED THAT  
20          SAMPLING OF MATERIAL CURRENTLY STORED AT THE  
21          FACILITY BE CONDUCTED BY AN LEA OTHER THAN SAN  
22          BERNARDINO FOR THE AFOREMENTIONED REASON, AND THE  
23          TESTING OF THE ON-SITE MATERIAL WILL BE AFFECTED  
24          BY THE ACCUMULATION OF MOISTURE.   THIS COMMENT  
25          DEALS SPECIFICALLY WITH THE ON-SITE 4-INCH

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1 MATERIAL ON SITE.

2 WE ALSO FEEL THAT THERE SHOULD BE A  
3 SAMPLING AT EACH OF THE TRANSFER STATIONS PRIOR TO  
4 WHERE THEY'RE CLEANING THE MATERIAL IN ORDER TO  
5 DETERMINE WHAT THE PERCENTAGE OF RESIDUAL WAS  
6 PRIOR TO THE MATERIAL RECOVERY FACILITY SENDING IT  
7 TO US. THAT WOULD AT THIS POINT BE THE BEST PLACE  
8 TO DO IT, AS THE CLEANING PROCESS, STILL WE WOULD  
9 TAKE THE MATERIAL -- THE MATERIAL WOULD BE TAKEN  
10 BY AN INDEPENDENT PARTY AT THE MATERIAL RECOVERY  
11 FACILITY JUST BEFORE THEY CLEAN IT BECAUSE THAT'S  
12 WHAT IT USED TO LOOK LIKE WHEN IT CAME TO US.

13 PACIFIC SOUTHWEST FARMS FEELS THAT  
14 THE BOARD SHOULD ACCEPT THAT THERE WILL ALWAYS BE  
15 SOME PROCESSING PRIOR TO FEEDING WORMS IN THE FORM  
16 OF GRINDING, BLENDING, MIXING, AND SCREENING OF  
17 THE SIZE FOR MATERIAL. THIS PROCESS OF MANUFAC-  
18 TURING FEED FOR OUR STOCK IS NO DIFFERENT THAN THE  
19 CURRENT PROCESS IN PLACE FOR THE DAIRY INDUSTRY.  
20 A DAIRY FARM OPERATOR MANUFACTURES FEED FOR HIS  
21 LIVESTOCK BY MIXING GROUND GRAIN, MIXING HAY WITH  
22 FOOD WASTE QUITE COMMONLY.

23 THANK YOU VERY MUCH. DO YOU HAVE  
24 ANY QUESTIONS?

25 BOARD MEMBER RELIS: I HAVE A QUESTION.

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1                   CHAIRMAN PENNINGTON:  YES, MR. RELIS.

2                   BOARD MEMBER RELIS:  OKAY.  LET'S GO OVER

3                   THESE NUMBERS A SECOND.

4                   MR. MEIJER:  NO PROBLEM, SIR.

5                   BOARD MEMBER RELIS:  YOU REFER TO 218,000

6                   TONS RECEIVED FROM THREE FACILITIES.  I JUST WANT

7                   TO GET THESE FACTS.

8                   MR. MEIJER:  YES.  THAT DOESN'T INCLUDE

9                   THE AMOUNTS FOR SAWDUST, MANURE, PLP.

10                  BOARD MEMBER RELIS:  OKAY.  LET'S EXCLUDE

11                  THOSE.  AND THEN YOU ARE SAYING THAT THERE'S

12                  40,000 TONS OF UNPROCESSED MATERIAL ON SITE, AND

13                  ON SITE MEANS ALL SITES.

14                  MR. MEIJER:  NO, SIR.  THAT'S 4-INCH

15                  MATERIAL THAT HAS NOT BEEN SCREENED ON SITE.

16                  BOARD MEMBER RELIS:  SO I'M JUST TRYING

17                  TO UNDERSTAND.  FOR OUR PURPOSES, IS THAT THIS

18                  PILE THAT WE'RE LOOKING AT IN THE PICTURE?

19                  MR. MEIJER:  YES, SIR.

20                  BOARD MEMBER RELIS:  SO --

21                  CHAIRMAN PENNINGTON:  IT'S THE RED AREA

22                  ON THE CHART.

23                  MR. MEIJER:  THIS AREA ONLY.

24                  BOARD MEMBER RELIS:  THERE'RE 40,000

TONS

25                  BY YOUR ACCOUNT STILL THERE?

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1 MR. MEIJER: YES, SIR.

2 BOARD MEMBER RELIS: OKAY. AND YOU SAID  
3 THAT -- AND EVERYTHING ELSE, THE DIFFERENCE  
4 BETWEEN WHAT'S ON STORAGE, WHAT CAME IN, AND WHAT  
5 WAS RETURNED AS RESIDUAL HAS BEEN MARKETED?

6 MR. MEIJER: NO, SIR. HAS BEEN  
7 PROCESSED. THE ISSUE BEFORE US IS WHAT IS THE  
8 PROCESSING. OKAY. SO WHAT I DID IS EVERYTHING  
9 THAT WE HAVE SCREENED THAT'S READY TO GO INTO  
THE  
10 WORM BEDS, THAT IS THE MATERIAL THAT I'M  
REFERRING

11 TO. SO ANYTHING THAT HASN'T BEEN SCREENED THAT  
12 CAN'T BE FED DIRECTLY TO THE WORM BEDS WE'RE  
13 CONSIDERING AS UNPROCESSED.

14 BOARD MEMBER RELIS: OKAY. AND THAT'S  
15 40,000 TONS?

16 MR. MEIJER: YES, SIR. THERE'S 80,000  
17 TONS ON THE BALANCE OF THE SITE INCLUDING THE  
WORM  
18 BEDS.

19 BOARD MEMBER RELIS: OKAY. THANK YOU.

20 CHAIRMAN PENNINGTON: ANY OTHER  
21 QUESTIONS? MR. CHESBRO.

22 BOARD MEMBER CHESBRO: MR. MARTINEZ  
23 INDICATED THAT YOU DON'T INTEND TO USE THE 4-



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INCH

24 MATERIAL IN THE COMPOSTING; WAS THAT CORRECT?  
25 MR. MEIJER: YES, SIR, THAT'S CORRECT.  
I

1 DON'T KNOW -- NOWHERE IN THE REGULATIONS DOES IT  
2 ANYWHERE TALK ABOUT 4 INCH BEING A STANDARD FOR  
3 MATERIAL, SIR. IT JUST HAPPENED THAT THE MATERIAL  
4 THAT CAME FROM THE MATERIAL RECOVERIES PRIOR TO  
5 NOVEMBER OF LAST YEAR, SIR, WAS SCREENED TO THE  
6 4-INCH LEVEL AT THE MATERIAL RECOVERY FACILITIES,  
7 AND WE FELT WE COULD FEED THAT MATERIAL DIRECTLY  
8 TO THE WORMS.

9 THE PROBLEM THAT WE RAN INTO IS THAT  
10 THERE'D BE GREEN WASTE CAUGHT IN A PLASTIC BAG,  
11 AND THAT GREEN WASTE WOULD PUSH THAT BAG THROUGH  
12 THE SCREEN, AND WE WOULD RECEIVE THE BAG WITH IT.  
13 CONSEQUENCE BEING ONCE WE STARTED FEEDING IT AND  
14 THOSE PLASTIC BAGS MOVED TO THE SURFACE, THE WIND  
15 CAUGHT THEM AND STARTED BLOWING THEM AWAY. AND  
16 THE ONLY WAY WE COULD DEAL WITH THAT IS TAKING THE  
17 MATERIAL, STOCKPILING IT, AND THEN AFTER A WHILE  
18 SCREENING IT, SIR.

19 BOARD MEMBER CHESBRO: SO BUT IT'S NOT  
20 YOUR INTENTION TO UTILIZE THAT MATERIAL IN WORM  
21 COMPOSTING?

22 MR. MEIJER: NO, SIR. THERE'S ALWAYS  
23 BEEN AN INTENT TO CLEAN THE MATERIAL ADDITIONALLY.  
24 EACH OF THE CONTRACTS HAVE THAT CLAUSE IN IT.

25 BOARD MEMBER CHESBRO: SO WHAT IS IT THAT

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1           YOU INTEND TO DO WITH THE MATERIAL THAT'S THE  
2           4-INCH MATERIAL?

3                   MR. MEIJER:  WE INTEND TO SCREEN IT, SIR,  
4           AND HAVE THE OVERS BE RETURNED BACK TO THE  
5           MATERIAL RECOVERY FACILITIES FOR FURTHER  
6           PROCESSING, AND THE BALANCE OF THE MATERIAL THAT'S  
7           MINUS ONE AND A QUARTER INCHES WILL BE FED TO THE  
8           WORMS, SIR.

9                   BOARD MEMBER CHESBRO:  OKAY.

10                   CHAIRMAN PENNINGTON:  ANY ADDITIONAL  
11           QUESTIONS OF MR. MEIJER?  OKAY.  THANK YOU, MR.  
12           MEIJER.

13                   NOW WE'LL HEAR FROM GEORGE HAHN.

14                   MR. MEIJER:  HE'S NOT GOING TO SPEAK ON  
15           THIS UNLESS THERE'S A REQUIREMENT FOR  
REBUTTAL ON

16           OTHER ISSUES, SIR.  WE REALLY WANTED TO KEEP  
THIS

17           JUST TO PROCESSING, AND HE'S MORE HERE JUST  
IF THE

18           ISSUE OF THE MARKETING OF THE CASTINGS IS A  
19           QUESTION.

20                   CHAIRMAN PENNINGTON:  OKAY.  FINE.  
THANK

21           YOU.  THAT CONCLUDES YOUR PRESENTATION?

22                   MR. MEIJER:  YES.  THANK YOU, SIR.

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23                                   CHAIRMAN PENNINGTON:   NOW WE'LL MOVE

TO

24                   THE RESPONDENT, SAN BERNARDINO COUNTY, PAM

25                   BENNETT.

1 MS. BENNETT: GOOD MORNING, CHAIRMAN  
2 PENNINGTON, MEMBERS OF THE BOARD, STAFF, AND  
3 GUESTS. MY NAME IS PAM BENNETT. I'M DIRECTOR OF  
4 ENVIRONMENTAL HEALTH IN SAN BERNARDINO COUNTY, AND  
5 THE LEA IS ONE OF THE PROGRAMS IN MY DIVISION.

6 I WANTED TO START THIS MORNING BY  
7 INTRODUCING THE PRESENTATION STAFF AND OUR LEA  
8 STAFF THAT ARE HERE TODAY. THE LEGAL STAFF FOR  
9 THE LEA IS SUE NASH, THE PROGRAM MANAGER FOR THE  
10 LEA, AND OUR VECTOR CONTROL PROGRAM IS PAUL  
11 TAVARES, THE SUPERVISOR FOR THE LEA PROGRAM IS JIM  
12 TRUJILLO, AND THE ENVIRONMENTAL HEALTH SPECIALIST  
13 WITH THE LEA IS MATT SLOWIG.

14 I'D LIKE TO FRAME THE ISSUES FOR  
15 YOU. WITHIN OUR -- THE LEA'S HOUR PRESENTATION  
16 TODAY, MY PART WILL BE TO GIVE YOU A BASIC  
17 OVERVIEW OF THE CASE, AN ORIENTATION OF THE SITE,  
18 THE LEA'S APPLICATION OF THE LAW, THE LEA'S  
19 RELATIONSHIP TO OTHER COMPOSTERS, AND THE  
20 RAMIFICATIONS OF YOUR DECISION.

21 SUE WILL DISCUSS THE LEGAL ISSUES,  
22 AND PAUL HAS ABOUT A 20-MINUTE VIDEO TO NARRATE.  
23 IN CLOSING, I WILL PROVIDE A SHORT SUMMARY.

24 TO PRESENT THIS CASE PROPERLY, THE  
25 LEA WILL BE USING DIFFERENT MEDIAS, INCLUDING

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1 PICTURES, VIDEO, AND OVERHEADS. WE FEEL THAT EACH  
2 MEDIUM HIGHLIGHTS AN IMPORTANT FACET OF THIS CASE.  
3 SO WE'LL START WITH THE CASE.

4 THIS CASE, THE HEARING, IS AN APPEAL  
5 BY PACIFIC SOUTHWEST FARMS OF A DECISION OF OUR  
6 INDEPENDENT HEARING PANEL, AND I'LL BE READING  
7 FROM THE OFFICIAL HEARING PANEL DOCUMENTS.

8 RECEIVING -- AND THIS IS THE DOCUMENT HERE -- IT  
9 IS THE RECEIVING, STORING, AND FURTHER PROCESSING  
10 ON SITE OF THE 4-INCH SCREENED MATERIAL WHICH IS  
11 THE ACTIVITY REQUIRING A SOLID WASTE FACILITY  
12 PERMIT. LET ME EMPHASIZE THAT POINT AGAIN. OUR  
13 CASE IS ABOUT THE 4-INCH MATERIAL. IT'S NOT ABOUT  
14 PUTTING PACIFIC SOUTHWEST FARMS OUT OF BUSINESS,  
15 AND IT'S NOT ABOUT THE OTHER LAND USE ISSUES.  
16 THESE CONCERNS ARE OUTSIDE THE REALM OF THE LEA.

17 THE INDEPENDENT HEARING PANEL UPHELD  
18 THE LEA'S NOTICE AND ORDER TO CEASE AND DESIST  
19 ISSUED ON NOVEMBER 25, 1996. I THOUGHT I'D GO  
20 OVER JUST THE POINTS OF THAT ORDER.

21 THERE WERE SIX POINTS TO THE ORDER,  
22 AND I'LL MOVE IT UP AS WE GET TO THE BOTTOM TWO.  
23 BUT THERE WERE SIX POINTS IN BOTH NOTICE AND  
24 ORDERS, AND THE INDEPENDENT HEARING PANEL  
25 ELABORATED QUITE A BIT, BUT I KIND OF SUMMARIZED



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1 IT DOWN TO THE POINTS.

2 ONE WAS TO IMMEDIATELY CEASE AND  
3 DESIST IMPORTATION OF MUNICIPAL SOLID WASTE. TWO,  
4 TO PROCESS OR REMOVE ALL STOCKPILES OF GREEN WASTE  
5 MIXED WITH MUNICIPAL SOLID WASTE. THREE, TO HAVE  
6 THE SOLID WASTE REMOVED BY A DATE SPECIFIC. THE  
7 LEA'S ORDER WAS DECEMBER 31, 1996. THE HEARING  
8 PANEL EXTENDED THAT DATE TO MARCH 30, 1997.  
9 FOURTH, TO SUBMIT A SOLID WASTE FACILITY PERMIT  
10 APPLICATION. FIFTH, TO CONTAIN ALL THE LITTER ON  
11 THE SITE. AND SIXTH, TO REMOVE ALL RESIDUAL SOLID  
12 WASTE FROM THE SITE ON A REGULAR BASIS. THE LEA'S  
13 NOTICE AND ORDER WAS ONCE A WEEK. THE INDEPENDENT  
14 HEARING PANEL CHANGED THAT TO ONCE PER DAY.

15 THERE'S BEEN SOME DISCUSSIONS ABOUT  
16 THE DIFFERENT PRODUCT. WHAT IS IT WE'RE ALL  
17 TALKING ABOUT? THE LEA CALLED THE OFFENDING  
18 MATERIAL GREEN WASTE MIXED WITH MUNICIPAL SOLID  
19 WASTE. THE HEARING PANEL WERE NOT TECHNICAL  
20 PEOPLE, AND THEY SPENT ABOUT TWO HOURS TRYING TO  
21 DISCUSS WHAT ARE WE TALKING ABOUT, WHAT'S ON THE  
22 SITE, WHAT ARE THE DIFFERENT PILES?

23 SO TO HELP THEM, THEY FINALLY  
24 DECIDED ON AN IDENTIFIER, AND THEY ARE THE ONES  
25 WHO DECIDED ON THAT TERM, AND THAT WAS 4-INCH

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1 MINUS. AND THAT WAS BECAUSE THE APPLICANT HAD  
2 INDICATED THAT IT HAD GONE THROUGH A 4-INCH  
3 SCREEN, SO THAT SEEMED TO HELP THEM UNDERSTAND  
4 WHAT IS IT WE'RE TALKING ABOUT. WE'RE NOT  
5 AGREEING THAT THE PRODUCT HAS BEEN THROUGH A  
6 4-INCH SCREEN, BUT IT DID HELP US IDENTIFY WHAT  
7 PRODUCT WE WERE TALKING ABOUT.

8 AND THEN TO QUOTE FROM THE HEARING  
9 PANEL DECISION, WHICH I ALSO HAVE HERE, "FOR THE  
10 PURPOSES OF THESE FINDINGS AND PROCEEDINGS ONLY,  
11 THE GREEN WASTE -- GREEN MATERIAL/WASTE MIXED WITH  
12 SOLID WASTE WHICH IS PROCESSED/SCREENED ON SITE  
13 PRIOR TO SPREADING ON THE VERMICULTURE BEDS IS  
14 PREPROCESSED PRIOR TO DELIVERY TO THE SITE WITH A  
15 4-INCH SCREEN." SO THEY WERE JUST TRYING TO HELP  
16 THEMSELVES UNDERSTAND WHAT IT WAS WE WERE TALKING  
17 ABOUT.

18 ALMOST HALF OF THE MATERIAL ON THIS  
19 SITE OR APPROXIMATELY 61 TONS ON 8.9 ACRES IS NOT  
20 PART OF OUR ORDER. THERE'S THE ONE-AND-A-QUARTER-  
21 INCH SCREEN, THE MANURE, THE TEA GRINDS, AND THE  
22 WORM CASTINGS. THE REMAINDER OF THE ACREAGE IS  
23 PONDS, AN OFFICE, BERMS, AND VACANT LAND.

24 I THOUGHT I'D GIVE YOU AN ORIENTA-  
25 TION TO THE SITE, AND I'VE BEEN TOLD I NEED TO

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1           STAY HERE SO THEY CAN HEAR IT. BUT WE HAVE THREE  
2           GRAPHICS FOR YOU. THE FIRST IS A PHOTOGRAPH FROM  
3           A HELICOPTER WHICH SHOWS YOU THE ENTIRE SITE, AND  
4           WE'VE OUTLINED IT IN RED SO THAT YOU CAN RELATE IT  
5           TO THE GRAPHIC THAT WE ALSO DREW, THE GRAPHIC WE  
6           DREW WHEN WE WENT ON SITE AND MEASURED THE  
7           DIFFERENT PILES. SO I WILL STEP AWAY. I THINK  
8           YOU CAN STILL HEAR ME.

9                       THIS IS THE PRODUCT IN QUESTION.  
10          THIS IS THE 4-INCH MATERIAL THAT WE'RE TALKING  
11          ABOUT. IN THIS PICTURE WE'VE SHOWN IT IN RED.  
12          AND IF YOU WANT TO KNOW, A CLOSE-UP OF WHAT THAT  
13          LOOKS LIKE, THIS IS THE PRODUCT CLOSE UP. THE RED  
14          AREA IS THE MATERIAL IDENTIFIED IN THE LEA'S  
15          NOTICE AND ORDER. IT ACCOUNTS FOR APPROXI-  
16          MATELY -- WE'RE SAYING APPROXIMATELY 80,000 TONS  
17          ON 6.6 ACRES, AND THAT HAD TO DO WITH -- WE'RE  
18          WILLING TO ADMIT THERE'S ROOM FOR ERROR BECAUSE  
19          SOME OF THE PILES VARY FROM 10 TO 12 FEET, BUT WE  
20          DID MEASURE AND WE DID DO OUR OWN CALCULATIONS.

21                      NOW GOING ON TO THE APPLICATION OF  
22          THE LAWS AND REGULATIONS. IN THE LEA ADVISORY NO.  
23          20 REGARDING INSPECTION GUIDANCE FOR SOLID WASTE  
24          LANDFILLS, IT STATES THAT THE PURPOSE OF THE STATE  
25          INSPECTION PROGRAM IS TO ENSURE THE ADEQUATE

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1 PROTECTION OF PUBLIC HEALTH AND SAFETY AND THE  
2 ENVIRONMENT. PACIFIC SOUTHWEST FARMS IS OPERATING  
3 IN A MANNER THAT PRESENTS SERIOUS HEALTH AND  
4 SAFETY RISKS.

5 THE LEA DETERMINED THAT STOPPING  
6 DELIVERY OF THE 4-INCH MATERIAL WAS THE HIGHEST  
7 PRIORITY AT THE TIME OF THE ENFORCEMENT ACTION.  
8 ONE OF THE OTHER ITEMS OF THE ORDER WAS REQUIRING  
9 A PERMIT AS A PROCESSING STATION, WHICH IS  
10 CONSISTENT WITH CURRENT LAW AND PROPOSED CIWMB  
11 DRAFT REGULATIONS.

12 THE ACTION -- THE ACTION THE LEA IS  
13 TAKING IS IN COMPLIANCE WITH THE MANDATES AS THE  
14 LOCAL ENFORCEMENT AGENCY AND IS CONSISTENT WITH  
15 ITS CERTIFICATION BY YOU, THE INTEGRATED WASTE  
16 MANAGEMENT BOARD. WE ARE ADDRESSING ONLY THE  
17 SOLID WASTE ENFORCEMENT ISSUES INDEPENDENT FROM  
18 OTHER ISSUES.

19 OUR ACTION IS CONSISTENT WITH LAW,  
20 REGULATIONS, NEW EMERGENCY REGULATIONS, PROPOSED  
21 TRANSFER PROCESSING STATION REGULATIONS, AND

CIWMB

22 ENFORCEMENT POLICY. THE LEA'S OBJECTIVE IS  
23 COMPLIANCE, NOT TO PUT PACIFIC SOUTHWEST FARMS

OUT

24 OF BUSINESS. THAT COMPLIANCE DEALS WITH THE



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25 MATERIAL IN RED.

1 WE HAVE BEEN IN COMMUNICATION WITH  
2 THE OPERATOR FOR OVER A YEAR AND A HALF. IN  
3 DECEMBER, AS HE MENTIONED, IN 1995, THE LEA  
4 REQUESTED INFORMATION ABOUT THE TYPES AND AMOUNTS  
5 OF MATERIAL THAT WERE ON SITE. PACIFIC SOUTHWEST  
6 FARMS PROVIDED A PROJECT DESCRIPTION, STATING THAT  
7 THE INCOMING MATERIAL WAS BEING PROCESSED WITHIN A  
8 WEEK OF DELIVERY AND TO REMOVE CONTAMINANTS -- AND  
9 TO REMOVE CONTAMINANTS AND WOULD CONTAIN 13  
10 PERCENT TRASH.

11 IT WAS A VERY SMALL OPERATION AT  
12 THAT TIME. THEREFORE, THERE APPEARED TO BE NO  
13 FURTHER ACTION REQUIRED BY THE LEA. BUT IN AUGUST  
14 OF 1996, THE LEA DETERMINED THE SITE WAS IN  
15 VIOLATION OF MINIMUM STANDARDS. SINCE THEN, THE  
16 LEA HAS DOCUMENTED CONTINUING VIOLATIONS AND HAS  
17 PROVIDED REASONABLE TIME FOR THE PROJECT TO COME  
18 INTO COMPLIANCE.

19 THE STOCKPILES OF REFUSE HAVE  
20 CONTINUED TO GROW. UNTIL NOW, AS THESE PICTURES  
21 SHOW, THE STOCKPILES, THE PROCESSING PILES, AND  
22 THE PRODUCT VIRTUALLY COVERS THE ENTIRE SITE.

NO  
23 MOVEMENT OF ANY SIGNIFICANT AMOUNT OF PRODUCT  
OFF  
24 SITE IS EVIDENT. AS A REASONABLE LEA AND HEALTH

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25 OFFICIAL, THE PRESENT CONDITIONS CANNOT BE

1 TOLERATED.

2 THE OPERATOR HAS IMPLIED THAT THE  
3 LEA IS OPPOSED TO ORGANIC RECYCLING, ESPECIALLY  
IN  
4 THE AG PRESERVE. SAN BERNARDINO COUNTY LEA WAS  
5 ONE OF THE FIRST LEA'S TO ISSUE A FULL SOLID  
WASTE

6 FACILITIES PERMIT FOR A SLUDGE AND GREEN WASTE  
7 PROCESSING FACILITY IN THE AG PRESERVE.

8 THE OWNER OF THAT FACILITY, LARRY  
9 CURTY, ONE STOP LANDSCAPE, HAS PROVIDED US WITH  
A  
10 LETTER. AND I'D LIKE TO READ YOU JUST ONE  
11 SENTENCE FROM THAT LETTER. "DESPITE THE ABSENCE  
12 OF GUIDELINES TO FOLLOW, BECAUSE THIS WAS  
SEVERAL

13 YEARS AGO, DURING THE PERMITTING STAGE AND FACED  
14 WITH LOCAL ORGANIZED OPPOSITION, THE LEA WORKED  
15 WITH US IN A PROFESSIONAL MANNER IN THE DEVELOP-  
16 MENT AND SITING OF OUR FACILITY."

17 I HAVE LETTERS HERE FROM TWO OTHER  
18 RECYCLERS AND ALSO THE ASSOCIATION OF COMPOST  
19 PRODUCERS. ALL OF THE LETTERS INDICATE THAT THE  
20 LEA WAS HELPFUL AND SUPPORTIVE. WE HAVE COPIES  
OF  
21 THOSE FOR VERIFICATION IF THE BOARD NEEDS THEM.

22 SAN BERNARDINO COUNTY NOW HAS TWO  
23 CO-COMPOSTING FACILITIES, BOTH IN THE AG  
PRESERVE,  
24 IN DIFFERENT AG PRESERVES, TWO GREEN WASTE  
25 COMPOSTING FACILITIES, THREE CHIPPING, GRINDING

1           AND MULCHING OPERATIONS, AND SEVEN COMMERCIAL  
2           FERTILIZER OPERATIONS.

3                       THE EXISTING CONDITIONS AT PACIFIC  
4           SOUTHWEST FARMS, IT APPEARS THAT THE MAIN  
BUSINESS

5           AT THIS SITE IS NOT VERMICULTURE, BUT  
STOCKPILING

6           OF TRASH FOR THE TIPPING FEES IT GENERATES. WE  
7           JUST DID A ROUGH CALCULATION, AND JUST THE  
PRODUCT

8           THAT'S STILL ON SITE, THE 4-INCH MATERIAL, COULD  
9           BE WORTH UP TO \$2 MILLION IN TIPPING FEES. THE  
10          TOTAL VOLUME THAT HE'S COLLECTED OVER THE LAST  
11          YEAR AND A HALF COULD BE WORTH \$5.4 MILLION.

THIS

12          IS A ROGUE OPERATOR WHO IS HURTING THE  
LEGITIMATE

13          RECYCLERS.

14                       WHAT LEADS ME TO THAT CONCLUSION,  
15          THERE ARE EIGHT SIGNS THAT POINT IN THAT  
16          DIRECTION. ONE, TO START WITH, IT DOESN'T  
APPEAR

17          TO BE THE FIRST SITE THAT PACIFIC SOUTHWEST  
FARMS

18          HAS OPERATED. THESE DOCUMENTS FROM 1992 AND  
1993

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19           SUGGEST THAT MR. MEIJER OPERATED A SIMILAR  
20           FACILITY IN THE CITY OF STANTON IN ORANGE  
COUNTY.

21           THE DOCUMENTS INCLUDE NOTES, LETTERS, AND A  
22           PRELIMINARY INJUNCTION TO CEASE AND DESIST.

23                         IN 1995, WHEN WE FIRST VISITED THE  
24           SITE -- OUR SECOND ISSUE, IN 1995, WHEN WE FIRST  
25           VISITED THE SITE, THERE WERE FEW WORM BEDS ON  
THIS

1           55 ACRES.   TODAY THERE'S 6.6 ACRES OF TRASH, TWO  
2           AND A HALF ACRES OF THE ONE-AND-A-QUARTER-INCH  
3           MATERIAL, FIVE ACRES OF WORM BEDS, 1.3 ACRES OF  
4           CASTINGS, AND .34 ACRES OF TEA GRINDS AND MANURE,  
5           FOR A TOTAL OF APPROXIMATELY 15 ACRES, AT A TOTAL  
6           TONNAGE OF A HUNDRED FIFTY THOUSAND TONS.

7                       COUNSEL FOR THE PROPERTY OWNER  
8           INFORMED ME YESTERDAY THAT THEY HAVE OBSERVED A  
9           MATERIAL THAT APPEARS TO BE TRASH CONTINUES TO  
10          COME ON THE SITE ON ALMOST A DAILY BASIS.

11                      MY THIRD ISSUE IS THAT ALMOST ANY  
12          MATERIAL THAT IS PROCESSED DOESN'T SEEM TO LEAVE  
13          THE SITE.   THE PILES OF WORM CASTINGS HAVE GROWN  
14          SUBSTANTIALLY OVER TIME.   MR. HAHN, WHO TESTIFIED  
15          IN THE HEARING LAST MONTH, SAID HE'S TAKING  
16          PRODUCT FROM THIS FACILITY.   ON MAY 14, 1997,  
17          LITTLE OVER TWO WEEKS AGO, WHEN THE LEA REQUESTED  
18          RECORDS OF THE AMOUNT HE BUYS, MR. HAHN REFUSED TO  
19          PROVIDE THOSE RECORDS TO THE LEA.   WHEN THE LEA  
20          REQUESTED THE SAME RECORDS FROM PACIFIC SOUTHWEST  
21          FARMS, THEY REFUSED TO PROVIDE ANY RECORDS.

22          WITHOUT ANY DOCUMENTS TO THE CONTRARY, OUR  
23          OBSERVATIONS ARE THAT ALL OF THE PILES CONTINUE TO  
24          GROW.   FOURTH, THE FOURTH SIGN THAT THIS IS NOT A  
25          GOOD OPERATOR.



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1                   AND NOW THAT THIS SITE APPEARS TO BE  
2                   REACHING CAPACITY, THE APPLICANT HAS STARTED A  
3                   PROJECT IN KERN COUNTY. AND I TALKED TO THE LEA  
4                   IN KERN COUNTY.

5                   FIFTH, AN EXPERT IN THE FIELD OF  
6                   VERMICULTURE VISITED THE SITE LAST WEEK OR THE  
7                   WEEK BEFORE AND TOLD US THERE WAS TOO MUCH WASTE  
8                   MATERIAL ACCUMULATED AND NOT ENOUGH WORMS ON SITE.  
9                   HE ALSO NOTED THAT THE MATERIAL, HE THOUGHT, WAS  
10                  REALLY TOO CONTAMINATED TO GROW WORMS. JIM  
11                  TRUJILLO ON OUR STAFF TALKED TO THAT MAN.

12                  THE SIXTH SIGN THAT THERE'S A  
13                  PROBLEM IS THE OPERATOR DID NOT COMPLY WITH  
ORDERS

14                  FROM THE FIRE DEPARTMENT TO REDUCE THE FIRE  
15                  HAZARDS ON THE SITE. SO WHAT HAPPENED? THIS  
FIRE

16                  REPORT FROM CHINO VALLEY INDEPENDENT FIRE  
DISTRICT

17                  NOTES THAT THERE WERE TWO FIRES ON THE SITE.  
THE

18                  SECOND FIRE CONSUMED A HOME, TWO HAY BARNs, 200  
19                  ACRES OF AG PRESERVE, AND KILLED COWS.

20                  WE HAVE A VERY EMOTIONAL LETTER  
HERE

21                  TOO FROM THE MAN WHOSE HOME WAS BURNED DOWN IN

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22            THAT FIRE.  HE FEELS THAT THE LOSS WAS OVER

23            \$200,000 TO HIM.

24                            THE SEVENTH SIGN THAT THERE'S A

25            PROBLEM IS THE LEA HAS OBSERVED THAT THESE PILES

1 OF MATERIAL ARE GENERATING LEACHATE. AND IN  
2 COMPLIANCE WITH AB 1220, WE HAVE REFERRED THESE  
3 PROBLEMS TO THE SANTA ANA WATER QUALITY CONTROL  
4 BOARD. I RECEIVED A LETTER JUST YESTERDAY, THAT  
5 WENT TO YOUR STAFF, BUT I'M SURE YOU DON'T HAVE IT  
6 YET, AND I WILL SUBMIT THAT, AND I'D LIKE TO READ  
7 PART OF THIS LETTER BECAUSE IT'S VERY SHORT.

8 IT SAYS, "THIS LETTER WILL CONFIRM  
9 THAT STAFF OF THE SANTA ANA REGIONAL WATER QUALITY  
10 CONTROL BOARD ARE CURRENTLY PREPARING A CLEANUP  
11 AND ABATEMENT ORDER FOR BARRY MEIJER, OPERATOR OF  
12 PACIFIC SOUTHWEST FARMS, FOR VIOLATIONS OF THE  
13 CALIFORNIA WATER CODE AT THE ABOVE-REFERENCED  
14 FACILITY."

15 THE EIGHTH SIGN THAT THERE IS A  
16 PROBLEM IS MR. MEIJER HAD TWO ORDERS TO PROCESS  
17 THE 4-INCH MATERIAL SINCE NOVEMBER. NO PROCESSING  
18 OF THAT MATERIAL HAS TAKEN PLACE. THESE EIGHT  
19 POINTS, TO ME, DO NOT SUGGEST AN OPERATOR WHO IS  
20 WILLING TO COMPLY WITH HEALTH AND SAFETY  
21 STANDARDS, BUT RATHER ONE WHO OPERATES BELOW  
22 ACCEPTABLE STANDARDS AT CONSIDERABLE COST SAVINGS  
23 TO HIM.

24 THIS SITE HAS CONDITIONS WHICH ARE  
25 NOT TOLERATED ANYWHERE ELSE IN THE COUNTY EVEN AT

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1           OUR LANDFILLS.   AND THE OPERATION HAS ENRAGED THE  
2           NEIGHBORS.   THEY'RE MAD ABOUT WHAT APPEARS TO BE  
3           AN ILLEGAL LANDFILL BLOWING TRASH AND FIRES.  
4           COMMUNITY OUTRAGE CAN ONLY HURT NEW FACILITIES.  
5           AND THEIR COMPLAINT IS VALID.   IF THIS IS THE WAY  
6           WE LET COMPOSTING OPERATIONS ALLOW TO OPERATE, NO  
7           ONE WILL WANT THEM NEAR THEM.

8                       AND NOW THE CHOICES ARE BEFORE YOU.  
9           NOW, THE IMPACTS OF SUSTAINING THE APPEAL.   IF YOU  
10          SUSTAIN THE APPEAL FOR PACIFIC SOUTHWEST FARMS, IT  
11          WILL ENCOURAGE OTHER ROGUE OPERATORS TO MANIPULATE  
12          THE LAW FOR PROFIT.   IT WILL GENERATE MORE PUBLIC  
13          OPPOSITION TO AN INDUSTRY WHICH IS IN JEOPARDY.  
14          IT WILL MAKE IT DIFFICULT FOR LEGITIMATE OPERATORS  
15          TO SITE AND OPERATE FACILITIES.   IT WILL HAVE A  
16          CHILLING EFFECT ON THE LEA ENFORCEMENT.   IT WILL  
17          UNDERMINE THE STRONG ENFORCEMENT PROGRAM DEMANDED  
18          BY YOU, THE BOARD, FOR ALL THE LEA'S STATEWIDE.

19                      IF YOU DENY THIS APPEAL, YOU WILL  
20          SHOW SUPPORT FOR THE LEA'S AND THE INDEPENDENT  
21          HEARING PANEL NOTICE AND ORDER.   YOU WILL SEND A  
22          SIGNAL TO ALL LEA'S THAT THEY CAN EXPECT SUPPORT  
23          FOR THEIR ENFORCEMENT EFFORTS.   YOU WILL SEND A  
24          CLEAR MESSAGE TO ANY OTHER ROGUE OPERATORS THAT  
25          THE STATE WILL NOT TOLERATE ILLEGAL ACTIVITIES.

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1           YOU WILL IMPLEMENT YOUR OWN ENFORCEMENT POLICY,  
2           AND YOU WILL ASSIST IN PROMOTING A POSITIVE IMAGE  
3           OF THIS INDUSTRY. IT IS IMPERATIVE THAT YOU DENY  
4           THIS APPEAL BY PACIFIC SOUTHWEST FARMS.

5                       SUE NASH, OUR LEGAL STAFF, WILL NOW  
6           PRESENT THE LEGAL ANALYSIS.

7                       BOARD MEMBER FRAZEE: COULD I ASK A  
8           QUESTION OF THIS WITNESS?

9                       CHAIRMAN PENNINGTON: CERTAINLY. THE  
10          RECORDER NEEDS A MOMENT.

11                      BOARD MEMBER FRAZEE: COULD YOU RETURN TO  
12          YOUR SLIDE ON THE SIX POINTS? AND THE POINT I  
13          WANTED TO MAKE, YOUR INITIAL EMPHASIS WAS THAT THE  
14          4-INCH MATERIAL WAS THE PROBLEM; AND IF THE 4-INCH  
15          MATERIAL WERE CLEANED UP, THERE WOULD NOT BE A  
16          PROBLEM.

17                      MS. BENNETT: RIGHT.

18                      BOARD MEMBER FRAZEE: LOOKING AT -- MOVE  
19          ON UP. WELL, LET'S TAKE 3 AND 4, TO HAVE ALL  
20          MUNICIPAL SOLID WASTE REMOVED FROM THE SITE. AND  
21          IT -- TELL ME WHY DOING THAT, IF ALL MUNICIPAL  
22          SOLID WASTE WERE REMOVED FROM THE SITE, THEN WHY  
23          WOULD THERE BE A NEED FOR A SOLID WASTE FACILITIES  
24          PERMIT?

25                      MS. BENNETT: THERE WOULDN'T BE. BUT



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1 WE -- ALTHOUGH WHAT OUR PROPOSAL WAS YOU CLEAN THE  
2 SITE UP FIRST; THEN, AS PER OUR REGULATIONS, YOU  
3 SUBMIT A FACILITIES APPLICATION TO THEN GO BACK  
4 AND DO THAT AGAIN. IF THAT'S WHAT YOU WANT TO DO,  
5 THEN SUBMIT AN APPLICATION PRIOR TO STARTING  
6 OPERATION.

7 BOARD MEMBER FRAZEE: BUT --

8 MS. BENNETT: WHICH IS THE WAY YOU  
9 SHOULD --

10 BOARD MEMBER FRAZEE: BUT IF THE  
11 OPERATION DID NOT INCLUDE ANY 4-INCH MATERIAL --

12 MS. BENNETT: CORRECT.

13 BOARD MEMBER FRAZEE: -- THEN IT'S YOUR  
14 REPRESENTATION THAT THERE WOULD NOT BE A PERMIT  
15 REQUIRED FOR THIS.

16 MS. BENNETT: RIGHT, THAT'S CORRECT. BUT  
17 WE WROTE THAT WITH THE ASSUMPTION THAT THEY WOULD  
18 WANT TO CONTINUE THAT TYPE OF OPERATION.

19 BOARD MEMBER FRAZEE: I SEE. HELP ME  
20 HERE. ON ONE HAND YOU'RE SAYING GET RID OF IT.  
21 ON THE OTHER HAND, YOU'RE SAYING IF YOU ARE GOING  
22 TO CONTINUE IT, YOU NEED A PERMIT.

23 MS. BENNETT: THAT'S RIGHT. THE PERMIT  
24 WILL INCLUDE ALL THE ENVIRONMENTAL WORK AND THE  
25 HEARINGS TO LAY THE CONDITIONS FOR IT TO OPERATE

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1           ADEQUATELY.  THE WAY IT'S OPERATING, IT'S JUST A  
2           DUMP.  SO WE NEED TO GET RID OF THAT HAZARD FIRST.  
3           THEN THROUGH THE PERMITTING PROCESS WE CAN  
4           DETERMINE HOW TO OPERATE THAT IN A SAFE AND  
5           HEALTHFUL MANNER.  AND THAT MAY INCLUDE A LINER.  
6           IN MANY OF OUR COMPOSTING FACILITIES, THEY HAVE AN  
7           IMPERMEABLE SURFACE.  SO THE PRODUCT WOULD HAVE TO  
8           BE REMOVED ANYWAY.  WE DON'T WANT TO WAIT ANOTHER  
9           THREE OR FOUR MONTHS FOR THE PERMITTING PROCESS TO  
10          GO THROUGH TO FIND OUT WHETHER OR NOT IT'S OKAY.  
11          WE KNOW IT'S NOT OKAY RIGHT NOW.

12                   CHAIRMAN PENNINGTON:  WE'LL TAKE JUST  
13          MINUTE TO LET HER CHANGE THE PAPER, AND THEN I  
14          THINK MR. JONES HAS A QUESTION OF YOU, MS.  
15          BENNETT.

16                               (RECESS TAKEN.)

17                   CHAIRMAN PENNINGTON:  WE'LL COME BACK TO  
18          ORDER HERE NOW.

19                   MS. BENNETT, I BELIEVE MR. JONES HAD A  
20          QUESTION THAT HE WOULD LIKE TO DIRECT TO YOU.

21                   BOARD MEMBER JONES:  THANK YOU, MR.  
22          CHAIRMAN, MS. BENNETT.  ONE OF THE STATEMENTS THAT  
23          YOU MADE WAS THAT THIS -- THE 4-INCH NEEDED TO BE  
24          CONSISTENT WITH LAW AND THE LEA CERTIFICATION  
25          PROCESS.  I'D LIKE YOU TO -- YOU SAID THAT YOU HAD

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1 TO BE ABLE TO PERMIT THIS FACILITY TO BE  
2 CONSISTENT WITH LAW AND TO BE CONSISTENT WITH LEA  
3 CERTIFICATION WHICH OUR BOARD DOES.

4 I'M WONDERING IF YOUR LETTER, COUNTY  
5 COUNSEL'S LETTER ON APRIL 2D, WHICH STATES THAT  
6 THE PROCESSING, SCREENING OF MIXED SOLID AND GREEN  
7 WASTE IS AN ACTIVITY WHICH THE LEA AND THE  
8 INDEPENDENT HEARING PANEL FOUND WAS A PROCESSING  
9 STATION AND WAS NOT VERMICOMPOSTING BY SECTION  
10 40200 DEFINES A TRANSFER OR PROCESSING STATION.  
11 IS THAT WHY YOU THINK THIS HAS TO BE PERMITTED,  
12 BASED ON THE FACT THAT THE SEPARATED MATERIAL, AS  
13 YOU TERM IT, IS SOLID WASTE, GREEN WASTE.

14 MS. BENNETT: THAT'S OUR CASE.

15 BOARD MEMBER JONES: THAT'S THE WHOLE  
16 CASE.

17 MS. BENNETT: THAT'S IT.

18 BOARD MEMBER JONES: I MEAN THAT TO ME, I  
19 READ THIS WHOLE THING, AND THAT WHOLE CASE BREAKS  
20 DOWN TO THAT ONE SENTENCE IS THAT A PROCESSED  
21 MATERIAL COMING OUT OF A MATERIALS RECOVERY  
22 FACILITY THAT HAS BEEN THROUGH A SERIES OF SCREENS  
23 OR TRAMMELS HAS BEEN REDUCED TO A FRACTION THAT IS  
24 CONSISTENT WITH IDENTIFYING A TYPE OF PRODUCT.  
25 THAT'S WHAT MRF'S DO THAT ARE AUTOMATED LIKE THAT.

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1            THAT THAT MATERIAL IS SENT FORWARD TO BE FEEDSTOCK  
2            FOR VERMICULTURE ACTIVITY.    AND YOU ARE SAYING  
3            BECAUSE THERE'S SOLID WASTE IN IT, IT NEEDS TO BE  
4            A TRANSFER STATION.

5                        MS. BENNETT:    A PROCESSING -- FURTHER  
6            PROCESSING STATION.

7                        BOARD MEMBER JONES:    THAT'S WHERE I  
8            LOSE -- THAT'S WHERE I HAVE A REAL PROBLEM WITH  
9            TRYING TO UNDERSTAND.    IS IT YOUR CONTENTION,  
10           THEN, TOO THAT EVERY FACILITY IN SAN BERNARDINO  
11           COUNTY, SPECIFICALLY ALCOA, REYNOLDS, ANY OF THE  
12           ALUMINUM MANUFACTURERS, THAT TAKE A SOURCE -- A  
13           SEPARATED MATERIAL EITHER FROM A MATERIALS  
14           RECOVERY FACILITY OR SOME FORM OF A TRANSFER  
15           STATION, WHICH GOES TO THEIR FACILITY TO BE

MELTED

16           DOWN AND PUT INTO A NEW PRODUCT, THAT MATERIAL  
17           GOES THROUGH A PROCESSING ON SITE TO REMOVE  
18           CONTAMINATION.    WHAT IS THE DIFFERENCE BETWEEN  
19           THAT OPERATION AND THIS OPERATION?

20                        MS. BENNETT:    WE BELIEVE THAT OPERATION  
21           THE PRODUCT HAS BEEN ADEQUATELY SOURCE SEPARATED  
22           TO BE PURE ENOUGH THAT IT IS NOW A MATERIAL.

WHAT

23           WE'RE SAYING IS THIS MATERIAL HAS NOT BEEN  
24           ADEQUATELY SEPARATED TO THE POINT WHERE IT IS



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NOW

25           USEFUL OR IT IS NOW A MATERIAL.   IT IS STILL

1 TRASH.

2 BOARD MEMBER JONES: SEE, WE COULD GET  
3 INTO THAT DEBATE BECAUSE AS FAR AS I'M CONCERNED  
4 IT'S ALL TRASH UNTIL IT'S SOLD, YOU KNOW, BUT THAT  
5 WOULD BE VERY CONTRARY TO WHAT A LOT OF PEOPLE  
6 HERE THINK. SO I DON'T THINK WE WANT TO GO OR I  
7 DON'T WANT TO GO DOWN THAT ROAD RIGHT NOW.

8 BUT I THINK THAT, YOU KNOW, EVERY  
9 PROCESSING FACILITY THAT I'VE EVER SEEN AND  
10 OPERATED, AND I'VE HAD A LITTLE EXPERIENCE IN SAN  
11 BERNARDINO COUNTY BECAUSE I WAS WITH THE COMPANY  
12 THAT ENDED UP TAKING OVER A LOT OF THOSE LANDFILLS  
13 IN SAN BERNARDINO COUNTY, BUT EVERY PROCESSING  
14 FACILITY HAS TO DO SOME FORM OF PROCESSING. AND  
15 THE IDEA IS TO GET IT INTO A -- YOU KNOW, IF I'M  
16 DELIVERING A MATERIAL, IT IS GOING TO HAVE SOME  
17 LEVEL OF CONTAMINATION IN IT.

18 I'M GLAD TO SEE THAT ONE OF THE  
19 PICTURES ON THE WALL WAS NOT THE SAME ONE THAT WE  
20 WERE SHOWN IN SAN BERNARDINO BECAUSE IT DID NOT  
21 REPRESENT WHAT I SAW ON SITE. I THOUGHT IT WAS A  
22 MISREPRESENTATION OF WHAT I SAW ON THE SITE.

23 BUT THERE IS SOME RESIDUAL WASTE IN  
24 ANY COMMODITY THAT IS PULLED FOR RECOVERY. THAT'S  
25 WHAT WE'RE ALL ABOUT. EVERYTHING WE'RE DOING HERE

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1           IS TRYING TO PROTECT THE HEALTH AND SAFETY TO  
2           DIVERT WASTE FROM LANDFILLS AND TO GENERATE NEW  
3           PROJECTS.

4                       I JUST -- MY QUESTIONS ARE BASED ON  
5           THAT ONE SENTENCE BECAUSE I THINK THIS WHOLE CASE  
6           BEING BASED ON THE TERMINOLOGY THAT IT IS A MIXED  
7           SOLID GREEN WASTE IS A POINT OF VIEW OR, YOU KNOW,  
8           THE LOGIC THAT THIS CASE IS BASED ON.  WHEN I SEE  
9           THAT MATERIAL DELIVERED, I WOULD SELL IT AS A  
10          SEPARATED GREEN WASTE MATERIAL WITH RESIDUAL WASTE  
11          IN IT.  I THINK THAT'S A HUGE DIFFERENTIAL.

12                    MS. BENNETT:  WE HAVE TWO OTHER CHIPPING,  
13          GRINDING, AND MULCHING OPERATIONS AND ANOTHER  
14          FACILITY THAT UTILIZES GREEN WASTE IN ITS  
15          COMPOSTING WITH SLUDGE.  NONE OF THOSE FACILITIES  
16          HAS ANYTHING THAT CLOSELY COMPARES TO THIS.  THOSE  
17          PEOPLE CALL IT GREEN WASTE.  WE AGREE THEY HAVE  
18          GREEN WASTE.  THERE COULD BE SOME LITTER, SOME  
19          PLASTIC IN IT, BUT THIS, AS FAR AS I'M  
CONCERNED,

20                   IS MORE TRASH THAN GREEN WASTE.  AND ALCOA  
WOULD

21                   NEVER ACCEPT A PRODUCT LIKE THIS, AND I BELIEVE  
22                   NONE OF YOUR RECYCLERS WOULD.  THEY WOULD LOOK  
AT

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23            THAT AND THEY'D SAY, NO, YOU TAKE THAT BACK AND  
24            YOU GET IT TO A MEDIUM THAT I CAN USE, NOT THIS  
25            TRASH THAT'S STILL COMMINGLED.

1                   BOARD MEMBER JONES:   OR THEY DEDUCT IT  
2                   OFF OF WHAT THEY'RE GOING TO PAY YOU IS WHAT  
3                   HAPPENS, AND THAT'S JUST A NORMAL PART OF  
4                   OPERATING, BUT IT HAPPENS EVERY DAY TO ANYBODY  
5                   THAT DELIVERS ANY MATERIAL.   BUT THAT WAS MY  
6                   QUESTION.   I THINK IT'S CRITICAL THAT EVERYBODY  
7                   KNOWS THAT MIXED SOLID WASTE AND GREEN WASTE IS  
8                   PRETTY IMPORTANT TERMINOLOGY IN THIS WHOLE THING.

9                   MS. BENNETT:   OKAY.

10                  CHAIRMAN PENNINGTON:   ANY OTHER QUESTIONS  
11                  OF MS. BENNETT?   WE'LL HEAR FROM SUE NASH NOW.

12                  MS. NASH:   GOOD MORNING.   SOME OF THIS IS  
13                  GOING TO BE REPETITION.   I'M GOING TO TRY AND MAKE  
14                  IT AS CLEAR AS POSSIBLE AND NOT GET TOO CONFUSING  
15                  WITH LEGAL TERMS.

16                  AS YOU KNOW, THERE ARE FOUR MAIN  
17                  ISSUES THAT OUTLINE THE DUTY OF THE LEA.   THEY ALL  
18                  HAVE THE WORD "ENFORCE" IN THEM.   ENFORCE THE ACT,  
19                  ENFORCE THE STATUTE, ENFORCE THE REGULATIONS,  
20                  ENFORCE THE TERMS AND CONDITIONS OF THE PERMITS,  
21                  AND TO REQUEST ENFORCEMENT BY OTHER AGENCIES.  
22                  THAT'S WHAT THE LEA HAS DONE HERE.

23                  AND THE PURPOSE OF THAT ENFORCEMENT  
24                  IS TO PROTECT THE PUBLIC HEALTH AND SAFETY.  
25                  THAT'S WHAT THE LEA HAS DONE HERE IS TO FULFILL

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1           THEIR STATUTORY DUTIES.

2                         IN CONJUNCTION WITH THIS, IN  
3           ADDITION TO THE NOTICE AND ORDER THAT'S ON APPEAL  
4           TODAY, WE HAVE ISSUED A SECOND TENTATIVE NOTICE  
5           AND ORDER TO PACIFIC SOUTHWEST FARMS REGARDING THE  
6           STORAGE AND CONTINUAL PRESENCE ON SITE OF THIS  
7           MATERIAL.   AND THAT'S FOR OPERATING A LANDFILL  
8           WITHOUT A SOLID WASTE FACILITIES PERMIT.

9                         THE ORIGINAL ORDER WAS PROCESSING  
10          BECAUSE AT THE TIME THEY WERE PROCESSING.   NOW IT  
11          SIMPLY HASN'T BEEN REMOVED, AND SO THEY'RE  
12          OPERATING A LANDFILL WITHOUT ANY OF THE BASIC  
13          LANDFILL REGULATIONS.

14                        WE SENT A WRITTEN COMPLAINT TO THE  
15          REGIONAL BOARD.   AS YOU HEARD, WE JUST GOT A  
16          LETTER BACK SAYING THAT THEY ARE MOVING FORWARD  
17          WITH THEIR ENFORCEMENT ACTIVITIES.   WE HAVE ALSO  
18          DISCUSSED FURTHER ENFORCEMENT WITH THE WEST VALLEY  
19          VECTOR CONTROL DISTRICT REGARDING THE EXCESSIVE  
20          AMOUNT OF FLIES AND MOSQUITO LARVAE ON SITE.

21                        THE SECOND ISSUE I WANT TO TALK  
22          ABOUT IS THE STANDARD OF REVIEW.   AGAIN, IT'S UP  
23          ON THE SCREEN.   MAY ONLY OVERTURN THE ENFORCEMENT  
24          ACTION BY LOCAL ENFORCEMENT AGENCY IF IT FINDS,  
25          BASED ON SUBSTANTIAL EVIDENCE, THE ACTION WAS



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1           INCONSISTENT WITH THIS DIVISION.   THE APPELLANT,  
2           PACIFIC SOUTHWEST FARMS, HAS THE BURDEN OF  
3           PROVIDING SUBSTANTIAL EVIDENCE TO SHOW THAT THE  
4           LEA'S ACTION IS INCONSISTENT WITH THE LAW.

5                       THE PICTURES, THE VIDEO, AND THE  
6           SITE VISIT MADE BY BOARD MEMBERS CONFIRM WITHOUT  
7           QUESTION, WE BELIEVE, THAT THE ALMOST SEVEN ACRES  
8           OF MATERIAL IN QUESTION IS SUBSTANTIALLY SOLID  
9           WASTE, AND IT DOESN'T QUALIFY UNDER THE

DEFINITION

10          OF GREEN WASTE AND CERTAINLY NOT CLEAN GREEN.

11                       AS WAS POINTED OUT AS YOU READ THE  
12          PORTION OUT OF MY BRIEF THAT I SUBMITTED TO THE  
13          BOARD, THE ISSUE TODAY IS NOT WHETHER A VERMI-  
14          COMPOSTER CAN PREPROCESS GREEN WASTE, THE  
15          ONE-AND-A-QUARTER-INCH MATERIAL.   WE HAVEN'T TOLD  
16          BARRY MEIJER THAT THE ONE-AND-A-QUARTER-INCH  
17          MATERIAL THAT'S VERY, VERY RELATIVELY CLEAN, NOT  
18          VERY, VERY CLEAN, CAN'T HAVE SOME MINOR  
19          PREPROCESSING TO GO TOWARD IT.   WHAT WE'VE SAID  
20          IS

21          THIS IS ABOUT PROCESSING A PRODUCT THAT IS  
22          SUBSTANTIALLY SOLID WASTE WITHOUT A SOLID WASTE  
23          FACILITIES PERMIT.

24                       THERE'S NO EVIDENCE THAT THE NEARLY  
25          SEVEN ACRES OF SOLID WASTE MIXED WITH SOME GREEN

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25 WASTE ON THE SITE IS VERMICOMPOSTING. THERE'S NO

1 QUESTION THAT IT IS. JUST BECAUSE THE PRODUCT  
2 HAPPENS TO BE PRODUCT AFTER SCREENING IS USED FOR  
3 VERMICOMPOSTING, THAT DOESN'T MAKE THOSE PILES  
4 VERMICOMPOSTING. AND THERE'S NO EVIDENCE THAT  
5 IMPORTING, PROCESSING, AND STORING THE SOLID WASTE  
6 MIXED WITH SOME GREEN WASTE IS EXCLUDED FROM THE  
7 REQUIREMENT FOR THE SOLID WASTE FACILITIES PERMIT  
8 BECAUSE IT HAPPENS TO BE ON A SITE WHERE  
9 VERMICOMPOSTING IS TAKING PLACE. THEREFORE,  
10 THERE'S NO EVIDENCE ON WHICH TO BASE A FINDING  
11 THAT THE LEA'S ACTION SHOULD BE OVERTURNED.

12 THE THIRD ISSUE IS REGARDS TO THE  
13 10-PERCENT CRITERIA OR THRESHOLD THAT WAS PROPOSED  
14 IN THE STAFF REPORT. AS STAFF SEEMS TO STATE,  
15 THAT THE BOARD HAS THE AUTHORITY TO MODIFY OR  
16 SOMEHOW CHANGE THE LEA'S DECISION BASED ON A  
17 TWO-PART TEST FOR DETERMINING WHEN A RECYCLING  
18 FACILITY NEEDS TO OBTAIN A SOLID WASTE FACILITIES  
19 PERMIT, THIS TWO-PART TEST IS NEITHER A STATUTE  
20 NOR REGULATION. AT MOST IT IS MERELY UNCODIFIED  
21 POLICY AND HAS BEEN REFERRED TO AS UNDERGROUND  
22 REGULATION.

23 THE BOARD'S DIRECTION TO STAFF TO  
24 PUT THIS POLICY INTO REGULATIONS DOES NOT MAKE  
THE  
25 POLICY LAW UNTIL THE REGULATIONS ARE ENACTED AND

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1       APPROVED.   UNTIL THAT HAPPENS, IT IS OUR POSITION  
2       THAT THE POLICY IS MEANINGLESS AS A LEGAL BASIS  
3       FOR OVERTURNING THE DECISION OF THE LEA.   THE LEA  
4       STRONGLY BELIEVES, AS A MATTER OF LAW, THAT THE  
5       BOARD HAS NO AUTHORITY TO MAKE A FINDING THAT THE  
6       LEA WAS WRONG IN REQUIRING A SOLID WASTE  
7       FACILITIES PERMIT FOR HANDLING SOLID WASTE BASED  
8       ON A POLICY THAT IS NOT A REGULATION.

9               THE LEA BELIEVES THAT A FINDING  
10       OVERTURNING THE LEA ON THE BASIS OF THE POLICY OR  
11       UNDERGROUND REGULATION IS AN ABUSE OF DISCRETION  
12       AND THEREFORE VOID.

13              THE PUBLIC RESOURCES CODE PROVIDES  
14       FURTHER THAT IF THE BOARD OVERTURNS A DECISION,  
15       THEN IT CAN DIRECT THE LEA TO TAKE APPROPRIATE  
16       ACTION.   BUT NEITHER OF THESE ACTIONS CAN BE TAKEN  
17       UNTIL AND UNLESS THE BOARD MAKES FINDINGS BASED ON  
18       SUBSTANTIAL EVIDENCE THAT THE LEA WAS WRONG.  
19       UNDERGROUND REGULATIONS, POLICIES THAT AREN'T  
20       REGULATIONS, ARE NOT A LEGAL BASIS FOR FINDING THE  
21       LEA IS WRONG.

22              THE PROBLEM THAT SUCH A FINDING  
23       WOULD CREATE FOR THE LEA IS TO PUT THEM IN AN  
24       IMPOSSIBLE LEGAL CATCH 22 POSITION AS FAR AS GOING  
25       FORWARD WITH THEIR ENFORCEMENT.   THE LEA AND THE

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1 HEARING PANEL CAN NO LONGER -- WOULD NO LONGER BE  
2 ABLE TO RELY ON THEIR OWN OBSERVATIONS AND  
3 JUDGMENT IN DETERMINING THE DIFFERENCE BETWEEN  
4 SOLID WASTE AND GREEN WASTE. THAT IS WHAT WE ARE  
5 CHARGED WITH DOING.

6 THE SEVEN ACRES OF SOLID WASTE ON  
7 SITE IS NOT GREEN WASTE. IT IS SOLID WASTE MIXED  
8 WITH GREEN WASTE, AND IT HAS A VERY HIGH  
9 PERCENTAGE OF RESIDUALS. IN FACT, BARRY MEIJER IN  
10 HIS APPLICATION TO THE PLANNING COMMISSION FOR THE  
11 CUP -- AND I PASSED THAT DOCUMENT OUT. I DON'T  
12 KNOW IF IT'S BEEN DISTRIBUTED YET -- INDICATED  
13 THAT AFTER 60, 90 DAYS OF BIOLOGICAL DECOMPOSI-  
14 TION, THE MATERIAL FROM THE FIRST PHASE OF THE  
15 OPERATION IS SCREENED ON A TRAMMEL TO REDUCE THE  
16 MATERIAL SIZE TO 1 INCH OR LESS. MATERIAL SIZED  
17 LARGER THAN 1 INCH AND NONBIODEGRADABLE MATERIAL  
18 IS HAULED TO A LANDFILL FOR DISPOSAL. APPROXI-  
19 MATELY 13 PERCENT OF THIS MATERIAL IS SENT BACK TO  
20 THE LANDFILL.

21 THE LEA AND THE HEARING PANEL CANNOT  
22 RELY ON THE CURRENT STATE OF LAW IN ISSUING THEIR  
23 NOTICE AND ORDERS IF A POLICY THAT IS NOT A  
24 REGULATION IS USED TO DETERMINE WHETHER THE LEA  
25 TOOK THE CORRECT ACTION OR NOT. AND HERE'S THE



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1           POSITION WE'RE IN.  IF WE ISSUE A NOTICE AND ORDER  
2           FOR A SOLID WASTE FACILITY PERMIT BASED ON OUR  
3           OBSERVATIONS, COMMON SENSE DETERMINATION, AND THE  
4           TESTIMONY OF THE APPLICANT AS TO THE AMOUNT, IT  
5           MAY BE OVERTURNED BECAUSE THE BOARD DECIDED TO  
6           EXCEED ITS AUTHORITY AND INVOKE A POLICY RATHER  
7           THAN A REGULATION OR STATUTE.

8                       THAT PLACES US IN A SITUATION WHERE  
9           WE DON'T KNOW WHETHER -- WE CAN'T RELY ON WHETHER  
10          OUR ENFORCEMENT ACTION IS GOING TO BE UPHELD OR  
11          NOT BECAUSE WE DON'T KNOW WHAT UNWRITTEN POLICY OR  
12          UNREGULATED POLICY THE BOARD MAY INVOKE AT ANY  
13          TIME.  ON THE OTHER HAND, IF THE LEA DETERMINES  
14          NOT TO ISSUE A NOTICE AND ORDER BECAUSE THE  
15          RESIDUALS ARE BELOW A CERTAIN PERCENTAGE, ITS  
16          CERTIFICATION MAY BE IN JEOPARDY BECAUSE IT HAS  
17          FAILED TO PROTECT THE PUBLIC HEALTH AND SAFETY.

18                      IF WE ISSUE AN ORDER, WE COULD  
LOSE;

19          IF WE DON'T ISSUE AN ORDER, WE CAN LOSE BECAUSE  
20          WE  
21          HAVE NO BASIS ON WHICH TO MAKE A DETERMINATION.

22                      THE LEA CAN ONLY FULFILL ITS  
23          STATUTORY DUTY TO PROTECT THE PUBLIC HEALTH AND  
SAFETY IF THE BOARD BASES ITS FINDING TO AFFIRM

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OR

24 OVERTURN AN LEA ACTION ON THE ACTUAL STATUTES

AND

25 REGULATIONS, NOT ON POLICY OR UNDERGROUND

1 REGULATIONS.

2 MY LAST POINT IS TO GO OVER AGAIN  
3 THE STATUTORY BASIS FOR OUR NOTICE AND ORDER.  
4 PUBLIC RESOURCES CODE SECTION 40200 DEFINES A  
5 TRANSFER PROCESSING STATION; OF COURSE, DOES NOT  
6 MENTION PERCENTAGE OF RESIDUALS. WHAT THE LEA  
7 FOUND AND WHAT THE HEARING PANEL FOUND IS PACIFIC  
8 SOUTHWEST FARMS IS A SOLID WASTE PROCESSING  
9 FACILITY REQUIRING A SOLID WASTE FACILITIES PERMIT  
10 AND IS IN VIOLATION OF THE CODE AS TO THE SEVEN  
11 ACRES OF SOLID WASTE MIXED WITH SOME GREEN WASTE  
12 BECAUSE IT DOES THE FOLLOWING THINGS: ONE, IT  
13 RECEIVES SOLID WASTE; TWO, IT STORES THE SOLID  
14 WASTE; THREE, IT SEPARATES, CONVERTS, OR

OTHERWISE

15 PROCESSES THE MATERIAL INTO SOLID WASTE; THE  
16 SOLID  
17 WASTE IS SEPARATED ON SITE, AND THE RESIDUALS  
18 ARE  
19 DISPOSED OF AT A LANDFILL.

20 WE ASK YOU TO UPHOLD THE DECISION  
OF  
THE HEARING PANEL AND THE LEA, WHICH ORDERED  
PACIFIC SOUTHWEST FARM TO STOP IMPORTING THE  
SOLID

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21 WASTE, STOP PROCESSING IT, AND REMOVE ALL THE  
22 SOLID WASTE FROM THE SITE. AND IF THEY DO WISH  
TO  
23 CONTINUE BRINGING THAT ON THE SITE, TO OBTAIN A  
24 SOLID WASTE FACILITY PERMIT.  
25 AS THERE'S NO EVIDENCE ON WHICH TO

1 OVERTURN THE NOTICE AND ORDER, PACIFIC SOUTHWEST  
2 FARMS CLEARLY HAS NOT MET ITS BURDEN OF SHOWING  
3 SUFFICIENT EVIDENCE IN THE RECORD TO OVERTURN THE  
4 HEARING PANEL'S FINDINGS. WE ASK THAT YOU VIEW  
5 THE FOLLOWING 22-MINUTE VIDEO AND OBSERVE AGAIN  
6 THAT THE LEA HAS AND WILL CONTINUE TO  
7 APPROPRIATELY RESPOND TO A SERIOUS HEALTH AND  
8 SAFETY PROBLEM WHICH SIMPLY CANNOT BE IGNORED.  
9 THANK YOU. DO YOU HAVE ANY QUESTIONS?

10 CHAIRMAN PENNINGTON: QUESTIONS OF MS.  
11 NASH? MR. RELIS.

12 BOARD MEMBER RELIS: EARLY IN YOUR  
13 PRESENTATION, MS. NASH, YOU MENTIONED THAT  
14 THERE'S

15 A SECOND TENTATIVE N&O.

16 MS. NASH: YES.

17 BOARD MEMBER RELIS: AND YOU REFERRED TO  
18 THAT FOCUSED ON A LANDFILL DELINEATION. COULD  
19 YOU

20 ELABORATE?

21 MS. NASH: I'M TOLD BY STAFF IT'S -- THE  
22 TECHNICAL TERM IS ILLEGAL DISPOSAL SITE.

23 BOARD MEMBER RELIS: ILLEGAL DISPOSAL  
24 SITE. OKAY. AND THAT IS SOMETHING THAT'S  
PENDING.

MS. NASH: WE ISSUED THE TENTATIVE

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NOTICE

25                   AND ORDER.   THERE WAS A RESPONSE FROM PACIFIC

1 SOUTHWEST FARMS, THAT IT APPEARED THAT THE  
2 UNDERLYING ISSUE ON WHETHER WE COULD ISSUE THAT  
3 TENTATIVE NOTICE AND ORDER, I.E., BECAUSE THERE'S  
4 VERMICOMPOSTING ON SITE, DOES THAT ENCOMPASS AN  
5 EXCLUSION FOR EVERYTHING ON THE SITE, WOULD BE  
6 RESOLVED AT THIS HEARING. AND SO WE HAVE PUT OFF,  
7 YOU KNOW, THE MEETING WITH THE APPLICANT WHICH  
8 FOLLOWS THE TENTATIVE NOTICE AND ORDER UNTIL AFTER  
9 THIS HEARING.

10 BOARD MEMBER RELIS: COULD I JUST  
11 UNDERSTAND WHAT THE RELATIONSHIP OF THAT DIRECTION  
12 IS TO THE ORIGINAL DIRECTION OF CALLING IT A  
13 TRANSFER STATION?

14 MS. NASH: I THINK THE RELATIONSHIP IS AT  
15 THE TIME THAT WE WROTE THE NOTICE AND ORDER, THEY  
16 WERE PROCESSING MATERIAL. AND SO THE NOTICE AND  
17 ORDER WAS FOR A PROCESSING STATION WITHOUT A SOLID  
18 WASTE FACILITY PERMIT. CURRENTLY THE MATERIAL HAS  
19 NOT BEEN PROCESSED FOR FOUR OR FIVE MONTHS THAT WE  
20 KNOW OF, AND NOW THEY ARE SIMPLY STORING IT,  
21 ILLEGALLY DISPOSING OF IT. IT'S SITTING THERE.  
22 AND THAT'S WHAT THE TENTATIVE NOTICE AND ORDER --  
23 SECOND TENTATIVE NOTICE AND ORDER IS ABOUT.  
24 WHAT'S HAPPENING TO THE MATERIAL HAS CHANGED, AND  
25 SO WE'VE ADDED THAT.



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1                   CHAIRMAN PENNINGTON:   ANY OTHER QUESTIONS  
2                   OF MS. NASH?   OKAY.   YOU MAY PROCEED.

3                   ARE YOU PAUL TAVARES?

4                   MR. TAVARES:   YES, SIR.   GOOD MORNING.  
5                   MY RESPONSIBILITY TODAY IS TO NARRATE A VIDEO  
6                   TAKEN BY THE LEA STAFF MAY 14, 1997, AFTER SERVING  
7                   AN INSPECTION WARRANT AT PACIFIC SOUTHWEST FARMS'  
8                   SITE.   IT IS MY UNDERSTANDING THAT SOME OF THE  
9                   BOARD MEMBERS HAVE NOT SEEN THE SITE.   THE PURPOSE  
10                  OF THIS VIDEO IS TO FOCUS ON THE LEA'S CONCERNS,  
11                  WHICH ARE MAINLY IN THE RED AREA HERE AND THIS  
12                  AREA IN THE PICTURE, THE TRASH PILES, THE  
13                  LEACHATE, THE VECTORS, AND TO VISUALIZE THE  
14                  MAGNITUDE OF THE SITE.

15                  I AM REQUESTING THAT YOU MOMENTARILY  
16                  PUT THE ANALYTICAL PORTIONS OF YOUR BRAIN TO REST  
17                  AND OPEN YOUR VISUAL PORTION OF YOUR BRAIN FOR  
18                  THIS 22-MINUTE VIDEO.   THERE WILL BE VERY LITTLE  
19                  NARRATION BECAUSE I BELIEVE THE VIDEO SPEAKS FOR  
20                  ITSELF.   I'VE SHOWN THIS VIDEO TO SEVERAL STAFF  
21                  MEMBERS; AND AS OF THIS MORNING, MY CHILDREN

DON'T

22                  UNDERSTAND WHY THIS VIDEO HAD PRIORITY OVER  
23                  BARNEY, SO I'VE GOT TO DEAL WITH THAT, BUT THAT'S  
24                  ANOTHER ISSUE.

25                  SOME THINGS THAT CAME OUT THAT

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1 PEOPLE HAVE NOTICED WHILE THEY WATCHED THIS, AND  
2 IT'S TO HOLD BASICALLY YOUR FOCUS, THERE'S A  
3 TELEPHONE CORD IN THERE SOMEWHERE; THERE'S A RED  
4 CRAYON, AND THERE'S A DOWNEY BOTTLE. SO TO HOLD  
5 YOUR FOCUS, CONCENTRATE ON THESE TWO THINGS WHILE  
6 YOU'RE WATCHING THIS SINCE IT'S SO LONG.

7 I WANT TO MAKE IT VERY CLEAR AND  
8 MAKE NO MISTAKE THAT THIS IS AN ENVIRONMENTAL  
9 DISASTER IN PROGRESS.

10 CHAIRMAN PENNINGTON: CAN I ASK WHEN THIS  
11 WAS SHOT?

12 MR. TAVARES: MAY 14, 1997.

13 (THE VIDEO WAS THEN SHOWN.)

14 MR. TAVARES: ABOUT THE FIRST TEN MINUTES  
15 OF THIS VIDEO IS DEALING WITH THE AREA IN RED.

16 THE HEIGHTS VARY ANYWHERE FROM 10 TO  
17 12 FEET. IT'S ALSO MY UNDERSTANDING THAT THESE  
18 ALLEYS WERE NOT CREATED UNTIL THE CHINO VALLEY  
19 FIRE DISTRICT REQUIRED THEM AS FAR AS FIRE BREAKS  
20 GO. BEFORE IT WAS JUST A SOLID MASS IT'S MY  
21 UNDERSTANDING.

22 AT THE TIME THAT WE SERVED THE  
23 INSPECTION WARRANT, MR. MEIJER WASN'T ON THE  
24 PROPERTY, SO MR. MEIJER'S SECRETARY ACCOMPANIED  
25 OUR STAFF.

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1                   THIS IS ONE OF THE PROCESSING UNITS  
2                   THAT'S USED ON SITE TO PROCESS THE 4-INCH  
3                   MATERIAL.

4                   AGAIN, THESE ARE JUST DIFFERENT  
5                   ANGLES OF THE PILES THAT ARE DEALT WITH IN THE RED  
6                   AREA, THE 4-INCH MATERIAL.

7                   AS YOU CAN SEE IN THIS, THERE'S A  
8                   LOT OF PLASTICS, PAPER BAGS OR PLASTIC BAGS AND  
9                   THINGS. THESE ARE THE SOURCE OF THE MAJORITY OF  
10                  THE COMPLAINTS THAT WHEN THE WINDS PICK UP, THESE  
11                  THINGS ARE BLOWN ALL OVER THE PROPERTIES AND OTHER  
12                  PROPERTIES.

13                  THIS IS LEACHATE THAT'S LEAKING FROM  
14                  THE PILES.

15                  AGAIN, THESE ARE THE PLASTIC BAGS.

16                  WE'LL BE GETTING INTO A LITTLE BIT  
17                  CLOSER DETAILS. IF YOU NOTICE, THERE'S BUSHES ON  
18                  TOP. THESE PILES HAVE BEEN SITTING HERE LONG  
19                  ENOUGH TO WHERE BUSHES HAVE STARTED TO DEVELOP.  
20                  ALSO, IT'S REALLY HARD TO FOCUS ON ANY GREEN WASTE  
21                  THAT'S INCLUDED IN THIS PILE.

22                  AGAIN, HERE'S ANOTHER EXAMPLE OF  
23                  LEACHATE. I DON'T CLAIM TO BE AN EXPERT, LEA  
24                  STAFF IS, AND THEIR BASIC AGREEMENT ON THIS IS  
25                  IT'S NOT JUST RAINWATER THAT'S RUN OFF FROM THE

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1 MOUNDS. IT'S ACTUALLY LEACHATE BECAUSE OF THE  
2 COLOR AND THE CONSISTENCY OF IT.

3 YOU WILL NOTICE THAT THERE'S A LOT  
4 OF FLIES THAT ARE KIND OF GOING ACROSS THE LENS AS  
5 IT'S MAKING THE PICTURES.

6 AGAIN, THE HEIGHTS ARE ABOUT  
7 ANYWHERE FROM 10 TO 12 FEET HIGH. YOU CAN SEE THE  
8 FLIES NOW A LITTLE BIT MORE CLEAR. AND HERE'S  
9 ANOTHER AREA THAT -- WHERE LEACHATE IS OBSERVED.  
10 HERE'S ONE OF THE PROCESSING MACHINES IN THE  
11 BACKGROUND.

12 AGAIN, THIS IS JUST DIFFERENT ANGLES  
13 OF THE AREA IN RED. HERE'S SOME MORE EXAMPLES OF  
14 LEACHATE AGAIN. AGAIN, THIS IS THE PROCESSING  
15 AREA WHERE THE 4-INCH GOES.

16 THE AREA IN RED ENCOMPASSES ABOUT  
17 6.6 ACRES, AND IT'S APPROXIMATELY 70 TO 90,000  
18 TONS IN OUR ESTIMATION. WHEN WE SERVED THE  
19 WARRANT, WE BASICALLY TOOK MEASUREMENT, SO THAT'S  
20 HOW WE CAME UP WITH THE NUMBERS.

21 WHAT WE HAD DONE PREVIOUSLY TO MAY  
22 14TH IS ON MAY 13TH, WE HAD VISITED THE SITE AND  
23 REQUESTED SOME INFORMATION FROM MR. MEIJER. HE  
24 REFUSED TO PROVIDE THAT. WE HAD REQUESTED AN  
25 INSPECTION SO THAT WE CAN ADEQUATELY PREPARE  
OUR



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1           CASE.   HE REFUSED TO GIVE US ANY INFORMATION.  
HE  
2           DID ALLOW US TO DO AN INSPECTION.   HE DID NOT  
3           ALLOW US TO TAKE ANY SAMPLES OR PICTURES, SO WE  
4           HAD TO GO BACK AND OBTAIN AN INSPECTION WARRANT  
IN  
5           ORDER TO GET THESE PICTURES.  
6                            AGAIN, THAT'S LEACHATE AND  
THERE'S  
7           BROWN LEAVES.   UNDERNEATH THAT IS ALSO  
LEACHATE.  
8           AND YOU CAN SEE SOME BUSHES IN THE PICTURES.  
9           AGAIN, THIS IS JUST AN OVERALL VIEW ON TOP OF  
THE  
10          PILES.   YOU CAN SEE THE WATERLINE THAT RUNS  
ACROSS  
11          THESE PILES.   IT'S MY UNDERSTANDING THAT IT'S A  
12          REQUIREMENT OF THE FIRE AGENCY OR THE FIRE  
13          DISTRICT.  
14                            AGAIN, IT'S REALLY HARD TO SEE IF  
15          ANY GREEN WASTE IS ACTUALLY MIXED INTO THIS.   I  
16          THINK ANOTHER IMPORTANT POINT ON THIS IS THAT  
IF  
17          THIS WERE A PERMITTED LANDFILL, NONE OF THIS  
WOULD

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18           BE TOLERATED.   THIS TRASH BASICALLY WOULD HAVE  
TO  
19           BE COVERED DAILY.   AND THE LEACHATE WOULD  
20           DEFINITELY -- WOULD HAVE TO BE ADDRESSED  
21           IMMEDIATELY.  
22                            AGAIN, YOU CAN SEE SOME BUSHES  
23           GROWING AGAIN.  
24                            THIS IS ALL 4-INCH MATERIAL.  
25                            I 'LL LET JIM TAKE OVER HERE.   HE  
HAS

1           A LITTLE BIT MORE EXPERIENCE ON THIS THAN I DO.

2                   MR. TRUJILLO:   HI.   MY NAME IS JIM  
3           TRUJILLO, AND I'M THE SUPERVISOR OF THE LEA  
4           SECTION.   JUST TO GIVE, WELL, SOME MORE  
5           PERSPECTIVE TO WHAT YOU'RE SEEING.   THIS IS A  
6           55-ACRE PARCEL.   AND AS PAUL WAS SAYING, MOST OF  
7           THIS IS THE RED AREA, THE 6.6 ACRES OF TRASH.   AND  
8           THIS DOESN'T LOOK LIKE GREEN WASTE.   THAT'S  
9           CERTAINLY NOT A RIVER FLOWING.   THAT'S ALL  
10          LEACHATE.   AND THAT'S ONE OF THE REASONS WHY THE  
11          REGIONAL BOARD IS GOING TO BE ISSUING A CEASE AND  
12          DESIST ORDER, AS INDICATED IN THE LETTER THAT WE  
13          JUST RECEIVED.

14                   AGAIN, THAT'S PLASTIC TRASH,  
15          SYRINGES, PLASTIC BOTTLES, ALL KINDS OF THINGS.  
16          AS I MENTIONED EARLIER, IT CAUSED A FIRE, CAUSED  
17          TWO FIRES, BURNED DOWN A DAIRYMAN'S HOUSE,  
18          LITTERING THE WHOLE NEIGHBORHOOD, KILLED SOME  
19          COWS, COUPLE OF HAY BARNs.

20                   AND AGAIN, ALL THIS, IN OUR VIEW,  
21          REQUIRES FURTHER PROCESSING BECAUSE YOU CAN'T FEED  
22          TRASH TO WORMS.   YOU NEED TO PROCESS IT.   SO,  
23          THEREFORE, WE FEEL THAT IT'S IMPORTANT THAT THEY  
24          OBTAIN A SOLID WASTE FACILITIES PERMIT SO THAT IT  
25          CAN BE DONE IN A MANNER THAT'S CONSISTENT WITH

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1 PUBLIC HEALTH AND SAFETY AND ENVIRONMENTAL  
2 STANDARDS, AT LEAST TO PROTECT THE ENVIRONMENT AND  
3 PUBLIC HEALTH AND SAFETY.

4 THIS, AGAIN, AS PAM BENNETT  
5 MENTIONED, IS A ROGUE OPERATION. IT SHOULDN'T BE  
6 TOLERATED IN ANY ONE OF THE 58 COUNTIES IN THE  
7 STATE OF CALIFORNIA. AND TO SAY THAT IT'S A  
8 VERMICOMPOSTING FACILITY, I THINK, IS JUST  
9 STRETCHING IT JUST A LITTLE BIT.

10 THERE YOU CAN SEE THE TRASH WHERE  
11 THE ROADWAYS WERE CUT THROUGH. I BELIEVE THAT WAS  
12 AT THE REQUEST OF THE FIRE DEPARTMENT. AGAIN,  
13 THEY'RE 10 TO 12 FEET HIGH. PRETTY SOON YOU'LL BE  
14 SEEING ALL THE VECTORS THAT ARE BEING CAUSED AS A  
15 RESULT OF THE TRASH AND THE LIQUID ON SITE. THE  
16 TELEPHONE CORD. SO AGAIN, IT'S HARD TO CALL THAT  
17 GREEN WASTE IN MY OPINION. I MAY BE JUST A LITTLE  
18 BIT BIASED. AND THIS IS --

19 BOARD MEMBER CHESBRO: THE PHONE CORD IS  
20 GREEN.

21 MR. TRUJILLO: AGAIN, THAT'S A SPRINKLER  
22 LINE ON TOP OF THE WORM BEDS NOW. THAT'S THE  
23 YELLOW PORTION OF THE -- AND YOU CAN SEE THERE'S A  
24 LOT OF LITTER, AND THERE'S A LOT OF GROUND GLASS  
25 MIXED IN THROUGH THERE. WE'VE BEEN TOLD BY PEOPLE

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IN THE INDUSTRY THAT IT'S NOT REALLY USABLE  
BECAUSE OF THE AMOUNT OF GROUND GLASS, SO IT CAN'T  
REALLY BE USED AS THE CASTINGS AS A FERTILIZER OR  
AMENDMENT BECAUSE OF THE GROUND GLASS. IT  
REQUIRES FURTHER SEPARATION.

AGAIN, YOU'RE LOOKING AT THE PILES  
OF TRASH. AND AGAIN, IF YOU LOOK AT THIS PICTURE,  
THIS IS ME HERE. AND I'M SIX SEVEN, SO YOU CAN  
TELL THE HEIGHT OF THE PILES, SIGNIFICANTLY TALLER  
THAN I AM.

AGAIN, WORM BEDS.

MR. TAVARES: THERE IS DEFINITE BREEDING IN THESE PILES. WE FOUND SOME RAT TAIL MAGGOTS IN THERE IN THIS. I'VE BEEN IN CONTACT WITH WEST VALLEY VECTOR CONTROL DISTRICT, AND THEY'VE MADE FIVE INSPECTIONS SINCE FEBRUARY 27TH OF THIS YEAR. THERE YOU SEE FLIES. THEY'VE MADE FIVE INSPECTIONS SINCE FEBRUARY TO MAY.

I THINK THERE WAS A STATEMENT MADE THAT THEY WERE BEING INSPECTED WEEKLY BY VECTOR CONTROL, BUT THEIR RECORDS INDICATE THERE'S ONLY BEEN FIVE INSPECTIONS. AND, IN FACT, ON THE INSPECTION ON MAY 27TH, THEY HAD TO DO SOME TREATMENT TO SOME OF THE WATER FOR THE LEACHATE. AGAIN, THESE FLIES THAT WOULDN'T BE



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1 TOLERATED AT A LANDFILL. THAT'S WHAT HAPPENS WHEN  
2 YOU DON'T HAVE GROUND COVER.

3 WE'VE DONE STUDIES BY ORDER OF THE  
4 HEALTH OFFICER WITH DAIRIES AND WITH CHICKEN  
5 RANCHES IN OUR COUNTY AND FOUND THAT THESE TYPE OF  
6 FLIES, WHICH ARE THE HOUSE FLY, THE MUSCA  
7 DOMESTICA, BASICALLY THEY'RE DIRECTLY RELATED WITH  
8 CARRYING SALMONELLA OR FOOD POISONING. SO WE TAKE  
9 IT VERY SERIOUSLY IN THE VECTOR CONTROL PROGRAM  
10 DEALING WITH MONITORING THE FLIES AND CONTROLLING  
11 THE FLIES. IN THIS AREA WHERE THESE FLIES ARE  
12 TAKEN IN, IT'S IN THE RED AREA WHERE THE 4-INCH  
13 MATERIAL IS.

14 MR. TRUJILLO: IN THIS AREA HERE YOU'LL  
15 SEE MEDICINE BOTTLES, AND THERE'S A RED CRAYON  
16 THAT PAUL WAS MENTIONING THAT JOHN RAMOS OF OUR  
17 STAFF WAS FOCUSING IN AND CONCENTRATING ON WHEN  
18 HE  
19 WAS TAKING THE VIDEO.

20 I DON'T KNOW IF ANY OF THE SYRINGES  
21 CAME UP CLEARLY, BUT THAT WAS ONE OF THE CONCERNS  
22 THAT THE FIRE AGENCY, THE FIRE DISTRICT, HAD WHEN  
23 THEY WERE PUTTING OUT THE FIRES BECAUSE THEY WERE  
24 AFRAID OF GETTING STUCK WITH THE NEEDLES.

25 AGAIN, THE WATERLINES AS -- THAT'S  
ON THE WORM BEDS. IT'S JUST A SMALL BUSH. IT

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1 DOESN'T REALLY INDICATE THE FULL LENGTH OF TIME  
2 THE PILES HAVE BEEN THERE.

3 MORE 4-INCH PILES. I THINK YOU GET  
4 A PRETTY GOOD PICTURE OF WHAT WE SEE OUT THERE AT  
5 PACIFIC SOUTHWEST FARMS. AGAIN, I'D LIKE TO SAY  
6 THAT, IN MY VIEW, IT'S NOT VERMICOMPOSTING.

7 BOARD MEMBER RELIS: MR. CHAIRMAN, ARE WE  
8 GETTING FAIRLY CLOSE? FIVE OF US HAVE BEEN THERE.  
9 I DON'T KNOW HOW MR. CHESBRO FEELS. HAVE YOU BEEN  
10 THERE, WESLEY?

11 CHAIRMAN PENNINGTON: NO. I THINK --

12 MR. TAVARES: YOU GET OUR POINT?

13 CHAIRMAN PENNINGTON: I THINK YOU'VE MADE  
14 YOUR POINT. WE'VE STILL HAVE GOT SOME REBUTTALS,  
15 AND WE MAY HAVE A LITTLE DISCUSSION.

16 MR. TAVARES: OUR ONLY CONCERN AS THE LEA  
17 IS THE STORAGE AND PROCESSING OF 75 TO 90,000 TONS  
18 OF TRASH. THANK YOU FOR YOUR PATIENCE AND  
19 UNDERSTANDING, AND PAM BENNETT WILL BE GIVING  
20 CLOSING STATEMENT.

21 CHAIRMAN PENNINGTON: FINE. THANK YOU.

22 MS. BENNETT: SO I THINK WE'VE GONE OVER  
23 THE FACTS OF THE CASE. WE'VE SHOWN YOU SOME  
24 GRAPHIC PICTURES, AND I THINK WE TRIED TO BE  
25 OBJECTIVE, SO WE GAVE YOU THE BIG PICTURE. WE

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1 GAVE YOU CLOSEUPS SO THAT YOU COULD MAKE YOUR OWN  
2 DECISIONS ON THAT, PICTURES WHAT WE'RE CALLING  
3 TRASH, AND WE PRESENTED OUR LEGAL ARGUMENTS. AS I  
4 MENTIONED EARLIER, IT IS IMPERATIVE THAT YOU DENY  
5 THIS APPEAL BY PACIFIC SOUTHWEST FARMS.

6 ARE THERE ANY OTHER QUESTIONS?

7 CHAIRMAN PENNINGTON: ANY QUESTIONS OF  
8 MS. BENNETT?

9 BOARD MEMBER CHESBRO: JUST TO CLARIFY  
10 ONE MORE TIME. I THINK I UNDERSTAND IT. BUT  
11 THERE HAVE BEEN SOME REFERENCES TO WHETHER OR NOT  
12 THE MATERIAL FROM THE VERMICOMPOSTING HAS BEEN  
13 SOLD AND WHETHER IT'S MARKETABLE BECAUSE THERE'S  
14 GLASS IN IT. THOSE REALLY AREN'T AN ISSUE  
15 DIRECTLY IN THE APPEAL OR THE APPEALS BOARD'S  
16 DECISION, RIGHT? THE APPEAL BOARD DECISION DEALT  
17 COMPLETELY WITH THE 4-INCH MATERIAL AND THAT  
18 ALONE?

19 MS. BENNETT: CORRECT. AND I THINK YOU  
20 MAY HAVE NOTICED IN SOME OF THE PICTURES, THERE'S  
21 PRODUCTS IN THERE THAT APPEAR TO BE GREATER THAN  
22 4-INCH. THAT WAS NOT OUR TERM. WE CALLED IT  
23 TRASH. BUT IT WAS SUGGESTED THAT -- BY THE  
24 APPLICANT THAT IT HAD BEEN THROUGH A 4-INCH  
25 TRAMMEL; SO, THEREFORE, WE -- THE HEARING PANEL

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1           PICKED UP ON THAT TERM AND THAT'S WHAT WE'VE BEEN  
2           USING BECAUSE IT GAVE US A WAY OF IDENTIFYING WHAT  
3           WE NOW CALL THE RED AREA. SO THE REST OF THE SITE  
4           IS NOT PART OF THE NOTICE AND ORDER; IT'S STRICTLY  
5           THE RED AREA.

6                     BOARD MEMBER JONES: MR. CHAIRMAN, JUST  
7           COUPLE THINGS. YOU KNOW, WE KEEP REFERRING TO THE  
8           4-INCH MATERIAL. I THINK IT'S FAIR TO SAY 4-INCH  
9           MINUS MATERIAL. WHEN IT GOES THROUGH A SCREEN,  
10          IT'S GOING TO BE 4 INCHES OR LESS. THAT'S THE WAY  
11          IT WORKS. I MEAN IT'S PRETTY SIMPLE.

12                    SO ALL THIS 4-INCH MATERIAL IS  
13          4-INCH MINUS MATERIAL, SO QUITE A BIT OF THAT  
14          STUFF IS THREE-EIGHTHS, QUARTER INCH, YOU KNOW,  
15          AND I THINK WE NEED TO MAKE THAT DETERMINATION  
16          THAT IT WAS CONVENIENT FOR THE HEARING PANEL TO  
17          CALL IT 4-INCH, BUT IT IS 4-INCH MINUS.

18                    MS. BENNETT: AND THAT WAS THE TERM THE  
19          HEARING PANEL USED, 4-INCH MINUS.

20                    BOARD MEMBER JONES: BUT I HAVEN'T  
HEARD

21          IT THAT MUCH TODAY. AND WE KEEP LOOKING AT THIS  
22          ORGANIC MATERIAL OUT THERE AND SAYING THERE'S  
23          NOTHING GREEN IN IT. I'M NOT SURE THAT GREEN IS

A

24          CONDITION OF SOMETHING BEING ORGANIC. MANURE IS



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25 NOT GREEN. THE LEMON PEELS, GREEN? NO. THE  
TEA

1 GRINDS AREN'T GREEN. THE SAWDUST AREN'T GREEN,  
2 BUT WE THINK WE ALL AGREE THAT THAT'S ORGANIC  
3 MATERIAL. SO, YOU KNOW, THAT CONCERNS ME, THAT  
4 WE'RE SAYING WHERE IS THE GREEN IN THIS PILE. I  
5 SAW AN AWFUL LOT OF ORGANIC.

6 WHEN YOU DECIDED THAT THE MATERIAL  
7 DIDN'T MEET THE DEFINITION OF SEPARATED FOR USE,  
8 WHAT STANDARD DID YOU OR YOUR STAFF USE TO MAKE  
9 THAT DETERMINATION?

10 MS. BENNETT: I DON'T THINK THERE WAS A  
11 PARTICULAR, LIKE, SIZE STANDARD. WE JUST USED  
12 WHAT WE KNOW OF THE COMPOSTING FACILITIES THAT WE  
13 INSPECT, OF THE LANDFILLS THAT WE INSPECT, AND WE  
14 SAID THIS APPEARS TO BE CLOSER TO TRASH THAN IT  
15 DOES TO GREEN WASTE. AND THAT IT NEEDED -- IT  
16 CAN'T BE USED AS IT CURRENTLY SITS THERE.

17 BOARD MEMBER JONES: BECAUSE YOU HAD USED  
18 THE TERM EARLIER THAT COMMON SENSE NEEDS TO  
19 PREVAIL. BUT THE STANDARD THAT YOU'RE USING TO  
20 DETERMINE IF THIS HAD BEEN SEPARATED, THERE WAS NO  
21 STANDARD. IT WAS COMMON SENSE?

22 MS. BENNETT: YES.

23 BOARD MEMBER JONES: SO THE FACT THAT --  
24 HOW DOES ANYBODY REALLY KNOW WHEN OR IF THEY'VE  
25 VIOLATED ANY LAWS?

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1 MS. BENNETT: WHEN THEY'RE CREATING A  
2 HEALTH HAZARD.

3 BOARD MEMBER JONES: OKAY. BUT IS THE  
4 CREATION OF THE HEALTH HAZARD THE FACT THAT  
5 THERE'S A MATERIAL ON SITE THAT YOU'VE  
6 DETERMINED -- BECAUSE THIS ISN'T A HEALTH HAZARD  
7 ISSUE. WHAT WE'RE TALKING ABOUT HERE IS THAT IS  
8 IT A PROCESSING FACILITY OR THAT YOU'RE  
9 DETERMINING THAT IT SHOULD BE CALLED A TRANSFER  
10 STATION.

11 MS. BENNETT: BUT IT IS ALSO CREATING A  
12 HEALTH AND SAFETY HAZARD.

13 BOARD MEMBER JONES: WELL, I UNDERSTAND.  
14 BUT WHAT YOU ARE SAYING IS IT NEEDS TO BE  
15 CONSIDERED A TRANSFER STATION BECAUSE IT HAS NOT  
16 BEEN PROCESSED. AND THEN WHEN I ASKED WHAT THE  
17 STANDARD WAS THAT YOU, YOU KNOW, USED TO MEASURE  
18 THAT, YOU DIDN'T HAVE -- YOU ARE NOT TELLING ME  
19 YOU HAD A STANDARD. YOU JUST LOOKED AT IT AND YOU  
20 MADE THE DETERMINATION THAT IT HAD NOT BEEN  
21 PROCESSED.

22 MS. BENNETT: IT HAS BEEN PROCESSED, BUT  
23 NOT ADEQUATELY.

24 BOARD MEMBER JONES: BY WHOSE STANDARD?  
25 THAT'S WHAT WE'RE TALKING ABOUT. WHOSE STANDARDS?

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1           YOU KNOW, AS FAR AS IT HAS BEEN PROCESSED, IT CAME  
2           FROM A MATERIALS RECOVERY FACILITY, CORRECT?

3                     MR. TRUJILLO:   CAN I ADD?

4                     BOARD MEMBER JONES:   SURE, ABSOLUTELY.

5                     MR. TRUJILLO:   RIGHT.  IT COMES FROM A  
6           MATERIAL RECOVERY FACILITY; BUT AS A RESULT OF A  
7           PROCESS OF DIRTY MRF'ING.  AND WHEN IT COMES ON  
8           SITE, WE SAW THAT IT REQUIRED FURTHER PROCESSING,  
9           AND THERE WAS A GREAT AMOUNT OF RESIDUAL WASTE,  
10          AND THERE WAS LITTER AND THERE WAS LEACHATE, AND  
11          IT WASN'T BEING HANDLED IN A SAFE,

ENVIRONMENTALLY

12          SAFE MANNER.  SO, THEREFORE, AS PART OF OUR  
13          MISSION TO PROTECT PUBLIC HEALTH, SAFETY, AND THE  
14          ENVIRONMENT, WE THOUGHT A SOLID WASTE FACILITIES  
15          PERMIT WAS APPROPRIATE AS STATED IN SECTION 40200  
16          OF THE PUBLIC RESOURCES CODE.

17                     AND AGAIN, WE'RE A CERTIFIED LEA.  
18          WE HAVE LOTS OF YEARS OF EXPERIENCE.  WE'RE  
19          REGISTERED ENVIRONMENTAL HEALTH SPECIALISTS.  WE  
20          WORK UNDER THE AUSPICES OF THE PUBLIC HEALTH  
21          DIRECTOR OF SAN BERNARDINO COUNTY.  SO I THINK  
OUR  
22          JUDGMENT, YOU KNOW, IS USUALLY PRETTY GOOD.  IN  
23          THIS CASE THAT WAS OUR DETERMINATION.

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24 BOARD MEMBER JONES: I'M NOT QUESTIONING  
25 YOUR QUALIFICATIONS. I NEED THE LEA'S TO UNDER-

1           STAND I AM A SUPPORTER OF LEA'S. I AGREE THAT  
2           LEA'S DO YOUR MISSION AND OUR MISSION. I  
3           COMPLETELY UNDERSTAND THAT.

4                       BUT I DON'T LOOK AT THIS AS A  
5           CHOICE. YOU KNOW, ONE OF THE EARLIER COMMENTS BY  
6           EITHER THE LEGAL STAFF OR BY MS. BENNETT WAS THAT  
7           OUR DETERMINATION WAS GOING TO SEND A CLEAR  
8           MESSAGE TO LEA'S THAT WE DON'T APPRECIATE WHAT  
9           THEY DO BECAUSE IF WE WERE TO OVERTURN -- AND I  
10          DON'T KNOW IF WE ARE. YOU KNOW, IF WE'RE TO  
11          OVERTURN, WE WERE GOING TO SEND A MESSAGE TO  
12          LEA'S. THAT IS NOT -- THAT ISN'T -- I DO NOT SEE  
13          THAT AS PART OF WHAT THIS IS ABOUT.

14                      PART OF THE TESTIMONY TODAY WAS THAT  
15          IT -- YOU KNOW, IT DIDN'T MEET THE STANDARD AND  
16          YET THERE WAS NO STANDARD USED BY STAFF TO  
17          DETERMINE IF IT HAD BEEN PROPERLY SEPARATED. AND  
18          AS AN OPERATOR OF AN AWFUL LOT OF FACILITIES,  
19          DEPENDING UPON THE TYPE OF MATERIAL, THAT'S WHY  
20          WHEN YOU SEND THAT MATERIAL TO A FACILITY FOR A  
21          PURPOSE, IN THIS CASE VERMICULTURE, THERE NEEDS  
22          TO  
23          BE ANOTHER PROCESS. BUT THAT DOESN'T MAKE IT A  
24          TRANSFER STATION. IT MAKES IT A PRODUCT. IT'S  
25          PART OF ANYTHING WE DO, ANYTHING IN OUR INDUSTRY.  
                    YOU KNOW, AT LEAST THIS MATERIAL,



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IT

1 HAS BEEN PROCESSED. IT'S GONE THROUGH A MRF. IF  
2 WE MAKE A DETERMINATION THAT BECAUSE IT WENT  
3 THROUGH A DIRTY MRF, THAT'S SOMEHOW WRONG, THAT  
4 REALLY SCARES ME AS A POLICY FOR THIS BOARD  
5 BECAUSE THE IDEA OF MATERIAL RECOVERY FACILITIES  
6 IS TO HELP ACHIEVE DIVERSION THROUGH MECHANICAL  
7 MEANS.

8 SO, YOU KNOW, WE'RE -- I'M CONCERNED  
9 ABOUT THIS DEFINITION THAT -- AND WHAT THAT THE  
10 STAFF USED TO DETERMINE. AND I THINK IT'S  
11 CRITICAL. I THINK IT'S ALSO CRITICAL THAT ONE  
12 LINE THAT SAYS THIS IS SOLID WASTE MIXED WITH  
13 GREEN WASTE. I THINK THAT IS THE WHOLE CRUX OF  
14 THE CASE. AND LIKE I SAID, I'VE BEEN ON THE SITE.  
15 AND, YOU KNOW, I MEAN BAGS HANGING OUT OF PILES, I  
16 AGREE ARE UGLY TO LOOK AT. THEY BLOW IN THE WIND.  
17 THEY ARE A DISASTER. BUT WHEN YOU CUT A HOLE --  
18 WHEN YOU CUT A LINE THROUGH ANYTHING THAT'S  
19 STACKED UP, WHATEVER IS LONG AND NOT GOING TO PULL  
20 OUT IS GOING TO HANG DOWN. BUT I THINK IF YOU  
21 LOOK, THOSE BAGS -- YOU KNOW, WHAT WE'RE TALKING  
22 ABOUT HERE IS A RESIDUAL WASTE OR A RESIDUAL OUT  
23 OF THE SECOND PIECE OF PROCESSING. AND THOSE BAGS  
24 WEIGH VERY LITTLE. IN FACT, VERY, VERY LITTLE.  
25 SO WHEN -- I DON'T KNOW WHAT YOU

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1           USED IN YOUR CALCULATION TO DETERMINE, YOU KNOW,  
2           IF YOU'RE 12 FEET HIGH AND YOU'RE THIS WIDE, WHAT,  
3           YOU KNOW, WHAT WEIGHT DID YOU USE TO DETERMINE  
4           WHAT A CUBIC YARD -- HOW MUCH A CUBIC YARD OF THIS  
5           MATERIAL WEIGHED TO COME UP WITH YOUR TONNAGE.  
6           DOES ANYBODY REMEMBER?

7                   MR. TRUJILLO:  I'D JUST LIKE TO ADD THAT  
8           ALSO WE HAD UTILIZED GUIDELINES FROM CIWMB THAT'S  
9           BEEN IN EFFECT AS A POLICY FOR YEARS AND YEARS AND  
10          YEARS WHERE WHEN YOU PROCESS AND YOU HAVE MORE  
11          THAN 15 CUBIC YARDS AT ANY ONE TIME OF RESIDUAL  
12          WASTE, THEN THAT QUALIFIES AS A TRANSFER  
13          PROCESSING FACILITY, REQUIRING A SOLID WASTE  
14          FACILITY PERMIT.  SO THAT INITIALLY WAS ONE OF  
15          THE --

16                   BOARD MEMBER JONES:  NO, I UNDERSTAND  
17          THAT.  THEY'VE CHANGED THAT.  IT USED TO BE TEN  
18          YARDS.  I WANTED TO SEE IT STAY AT TEN YARDS, BUT  
19          I WASN'T ON THIS BOARD AT THAT TIME.

20                   CHAIRMAN PENNINGTON:  MR. CHESBRO.

21                   BOARD MEMBER CHESBRO:  I BELIEVE I HEARD  
22          MS. BENNETT STATE WHAT SEEMS LIKE A PERFECTLY  
23          LOGICAL STANDARD THAT MEETS THE COMMON SENSE TEST  
24          THAT SHE MENTIONED.  AND I'D LIKE TO ASK HER ABOUT  
25          THIS WITH REGARDS TO THE QUESTION OF WHETHER THE

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1 MATERIAL IN ITS PRESENT STATE IS USABLE BY THE  
2 VERMICOMPOSTER OR WHETHER IT NEEDS FURTHER  
3 SEPARATION AND PROCESSING. IF NOT, IT'S A PILE OF  
4 STUFF THAT'S JUST SITTING THERE WHICH, IF IT IS  
5 WASTE, CONSTITUTES SOLID WASTE. AND SO DID I NOT  
6 HEAR YOU SAY AND I ALSO EARLIER QUESTIONED THE  
7 APPLICANT ABOUT WHETHER IT'S USABLE IN ITS PRESENT  
8 STATE.

9 MS. BENNETT: AND I THINK HE INDICATED IT  
10 IS NOT USABLE. WHAT WE'VE SAID IS THE OTHER  
11 PRODUCT THAT SEEMS TO BE FURTHER SCREENED,  
12 INCH-AND-A-QUARTER, IS PRODUCT. IT CAN BE USED.  
13 IT CAN BE PUT DIRECTLY ON THE BEDS AND UTILIZED BY  
14 THE WORMS. BUT WHAT THIS STUFF IS IS NOT  
15 SOMETHING THAT'S USABLE. IT'S JUST SITTING THERE  
16 AND IT IS TRASH. AND IT MAY HAVE BEEN SCREENED,  
17 BUT OBVIOUSLY IT WASN'T ADEQUATELY SCREENED.

18 BOARD MEMBER JONES: TO FOLLOW UP ON  
19 THAT, THOUGH, IF IT'S SCREENED TO FOUR AND A LOT  
20 OF IT IS LESS THAN FOUR, WHEN IT GOES THROUGH A  
21 SECONDARY SCREENING ON SITE TO GET PUT INTO THE  
22 BEDS, DOES THAT CHANGE ITS VALUE FROM BEING A  
23 WASTE TO A --

24 MS. BENNETT: YES.

25 BOARD MEMBER JONES: SO YOU ARE SAYING

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1            THAT THE SECONDARY PROCESSING CONSTITUTES A  
2            TRANSFER STATION?

3            MS. BENNETT:   YES.   A PROCESSING STATION.  
4            IT'S ALL IN THE SAME REG, TRANSFER/PROCESSING.

5            BOARD MEMBER JONES:   OKAY.   NOW, A CHIP  
6            AND GRIND OPERATION THAT GRINDS WOOD, OKAY, MAKES  
7            WOOD CHIPS, GOES THROUGH ANOTHER PROCESS IN A LOT  
8            OF CASES TO GET A CLEANER PRODUCT TO SELL TO  
9            ANYBODY.   AND THAT'S A SHAKER THAT ENDS UP  
10           KNOCKING THE FINES DOWN TO THE BOTTOM.   AND SO YOU  
11           HAVE TWO PRODUCTS.   WHAT'S THE DIFFERENCE?

12           MS. BENNETT:   WELL, IN THAT I ASSUME BOTH  
13           PRODUCTS ARE USABLE, ONE FOR SOMETHING SUCH AS  
14           BURNING AND THE OTHER COULD BE USED ON CROPS OR  
15           COMPOSTING.   IN THIS CASE THE PRODUCT IS LEFT  
16           OVER, AND THERE'S A LOT OF GLASS.   IT'S NOT JUST  
17           PLASTIC.   THERE'S A TREMENDOUS AMOUNT OF GLASS IN  
18           THIS PRODUCT OR IN THIS MATERIAL.   WHAT YOU HAVE  
19           THEN IS A WASTE.

20           BOARD MEMBER JONES:   BUT WOULDN'T YOU  
21           HAVE -- WHAT'S A WASTE?   THE GLASS YOU HAVE A  
22           WASTE?

23           MS. BENNETT:   THE GLASS, THE PLASTIC,  
THE  
24           SYRINGES, THE PLASTIC BOTTLES.



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25

BOARD MEMBER JONES: YEAH, YOU HAVE A

1 RESIDUAL JUST LIKE WHEN YOU DO THE WOOD CHIPPING  
2 AND IT'S GROUND AND IT'S KNOCKED OUT, YOU STILL  
3 HAVE A RESIDUAL WASTE THAT IS NEITHER OF THOSE  
4 JUST BECAUSE THAT'S THE WAY YOU GET THE WOOD.

5 MS. BENNETT: IN SOME OF OUR CASES THE  
6 WOOD IS ACTUALLY USED FOR BURNING.

7 BOARD MEMBER JONES: THE WOOD CHIPS, BUT  
8 IT GOES THROUGH ANOTHER PROCESS TO SCREEN THOSE  
9 CHIPS.

10 MS. BENNETT: IT COULD BE THAT THIS IS A  
11 NEW PROCESS AND THERE AREN'T SPECIFIC REGULATIONS  
12 THAT RELATE TO IT. WHEREAS, IN THE CHIPPING,  
13 GRINDING, MULCHING, THEY DID LOOK AT IT AND SAY  
14 THIS IS A SPECIFIC ACTIVITY AND WE CAN WRITE SOME  
15 SPECIFIC REGULATIONS FOR THAT. WE'RE USING WHAT  
16 WE HAVE AVAILABLE ON THIS FACILITY.

17 BOARD MEMBER RELIS: MR. CHAIR, ON THIS  
18 MATTER OF YOUR DECISION TO CALL IT A TRANSFER  
19 STATION, I HAVE SOME INTEREST IN THAT AS WELL  
20 BECAUSE IT IS AN IMPORTANT DECISION. IT HAS  
21 IMPLICATIONS. AND I WOULD LIKE TO ASK YOU TO ONCE  
22 AGAIN GO THROUGH THE PROCESS AS TO HOW YOU REACHED  
23 THE DETERMINATION TRANSFER.

24 MS. BENNETT: I'LL LET STAFF DO THAT.  
25 BOARD MEMBER RELIS: AS OPPOSED TO

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1 DISPOSAL OR BECAUSE NOW I'M TOLD IN YOUR SECONDARY  
2 N&O, YOU'RE LEANING MORE TO A DISPOSAL SITE.

3 MR. TRUJILLO: MAYBE I CAN ANSWER THAT,  
4 SIR. INITIALLY, WHEN OUT AT THE REQUEST OF THE  
5 REGIONAL BOARD, WE SAW TONS AND TONS AND TONS OF  
6 TRASH THAT WERE BEING PROCESSED TO GET A FINAL  
7 PRODUCT TO FEED TO THE WORMS. SO WE INDICATED  
8 THAT A TRANSFER/SOLID WASTE FACILITIES PERMIT  
9 WOULD BE REQUIRED FOR THAT OPERATION OF PROCESSING  
10 THE TRASH. SUBSEQUENT TO THAT NO ACTIVITY REALLY  
11 TOOK PLACE ON THE FACILITY. THERE WAS NO MORE  
12 PROCESSING; THERE WAS NO REMOVAL; IT WAS JUST  
13 STOCKPILING.

14 SO I THINK IT WAS ABOUT A MONTH AGO  
15 WE THEN ISSUED A SECOND TENTATIVE NOTICE AND  
16 ORDER, INDICATING THAT THEY WERE MAINTAINING AN  
17 ILLEGAL DISPOSAL SITE BECAUSE PRODUCT WAS NOT --  
18 BECAUSE THE MATERIAL WAS NOT BEING PROCESSED. IT  
19 WAS JUST BEING STOCKPILED.

20 BOARD MEMBER RELIS: AND HAS THAT BEEN  
21 ISSUED OR --

22 MR. TRUJILLO: WE ISSUED A TENTATIVE FOR  
23 REVIEW AND COMMENT UNDER THE PRC. THE APPLICANT  
24 CAN REQUEST A MEETING TO DISCUSS IT, AND WE HELD  
25 OFF HOLDING THAT MEETING PENDING THE RESULTS OF

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1           THIS HEARING.

2                   BOARD MEMBER RELIS:   BUT THAT'S BEEN  
3           FORMALLY ACTED ON?

4                   MR. TRUJILLO:   NO.   WE ISSUED A  
5           TENTATIVE.

6                   BOARD MEMBER RELIS:   TO ISSUE IT, YOU  
7           HAVEN'T DONE A STEP IN THE PROCESS, BUT YOU SENT A  
8           LETTER OUT.

9                   MR. TRUJILLO:   WE SENT OUT A TENTATIVE  
10          NOTICE AND ORDER SAYING THAT THEY WERE IN  
11          VIOLATION OF THE CODE BY MAINTAINING AN ILLEGAL  
12          DISPOSAL SITE AND WE INTENDED TO TAKE ACTION.  
13          THEY REQUESTED A MEETING TO DISCUSS IT.   WE SAID  
14          FINE, BUT LET'S HOLD THE MEETING AFTER THIS BOARD  
15          HEARING SO THAT WE CAN DETERMINE WHETHER OR NOT WE  
16          GO FORWARD WITH THAT FINAL NOTICE AND ORDER.

17                   BOARD MEMBER RELIS:   WILL THERE BE TIME,  
18          MR. CHAIR, TO ASK ANOTHER QUESTION OF THE --

19                   CHAIRMAN PENNINGTON:   YES.   THEY HAVE --  
20          IF SAN BERNARDINO COUNTY IS THROUGH, THEN THEY  
21          HAVE A REBUTTAL.

22                   BOARD MEMBER JONES:   CAN I ASK A  
23          QUESTION?

24                   MS. BENNETT, IF -- I GOT TO GET BACK  
25          TO THAT MATERIAL AND THE STANDARD THAT WAS USED.

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1 IF THE SOURCE OF THE MATERIAL WAS FROM A MATERIALS  
2 RECOVERY FACILITY AND THE SPEC THAT THE  
3 VERMICULTURE FARMER HAD SPECIFIED TO THOSE  
4 DELIVERING WAS 4-INCH MINUS, WHEN DID HE VIOLATE?  
5 YOU KNOW, WHEN WOULD YOU KNOW THAT THERE WAS A  
6 VIOLATION? WHEN WOULD HE KNOW THAT THERE COULD BE  
7 A VIOLATION OR THAT IT DIDN'T MEET WHATEVER  
8 STANDARD?

9 YOU KNOW WHAT I'M SAYING? HE'S PUT  
10 OUT A SPEC. HE HAS TALKED TO THE PEOPLE THAT ARE  
11 SPECING, THE MATERIAL COMES ON SITE AND GETS  
12 DELIVERY, AND YET THERE WASN'T A STANDARD USED TO  
13 DETERMINE. THERE WAS JUST COMMON SENSE. SO  
14 HOW -- WHEN DO WE KNOW THAT THERE -- THAT THIS IS  
15 A PROBLEM? WHEN DOES HE KNOW?

16 MR. TRUJILLO: SIR, HE WOULD KNOW THAT  
17 THERE'S A PROBLEM, NO. 1, WHEN HE HAS NEEDLES,  
18 SYRINGES, WHEN HE HAS PLASTIC BOTTLES, WHEN HE'S  
19 GOT BABY DIAPERS, WHEN HE HAS PLASTIC BAGS BLOWING  
20 ALL OVER THE AREA, WHEN HIS STOCKPILES CATCH FIRE  
21 AND BURN AND BURN THE NEIGHBOR'S HOUSE DOWN, THEN  
22 I THINK HE WOULD KNOW THAT HE'S GOT A PROBLEM.

23 BOARD MEMBER JONES: I'M KIND OF TALKING  
24 ABOUT THE DELIVERY OF THE MATERIAL.

25 MR. TRUJILLO: IN OPPOSITION TO THAT, IF



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1 HE WERE TO RECEIVE SOME MATERIAL THAT HE COULD  
2 JUST DIRECTLY FEED IT TO HIS WORM BEDS, HE  
3 WOULDN'T HAVE A PROBLEM WITH THE LEA. HE WOULDN'T  
4 HAVE A PROBLEM WITH HEALTH AND SAFETY OR THE  
5 ENVIRONMENT. BUT IN THIS CASE THAT HAS NOT BEEN  
6 THE CASE.

7 BOARD MEMBER JONES: OKAY. YOU KNOW, WE  
8 KEEP -- THE TERM "ROGUE OPERATOR" HAS BEEN USED  
9 QUITE A BIT THROUGHOUT MS. BENNETT'S PRESENTATION.  
10 AND THERE'S, YOU KNOW -- I MEAN WE ALL HAVE  
11 DEFINITIONS OF WHAT ROGUES ARE. I'VE DEALT WITH  
12 AN AWFUL LOT OF ROGUES THROUGH MY YEARS, AND  
13 THERE'S A LOT OF THEM I WISH NEVER WERE ALLOWED TO  
14 TOUCH ANYTHING, TO TELL YOU THE TRUTH.

15 BUT I'D LIKE TO KNOW IF MR.  
16 MEIJER -- THE DEFINITION OF ROGUE, I'D LIKE TO  
17 KNOW YOUR DEFINITION OF ROGUE IN REGARDS TO MR.  
18 MEIJER BECAUSE I THINK THAT'S IMPORTANT TOO. THE  
19 MORE I LISTEN TO THIS STUFF, THE MORE IT SOUNDS  
20 PERSONAL.

21 YOU KNOW, WE STARTED THE  
DISCUSSIONS

22 WITH THE FIRST TWO SENTENCES WHERE THIS IS NOT AN  
23 EFFORT TO PUT PACIFIC SOUTHWEST FARMS OUT OF  
24 BUSINESS AND IT'S NOT A LAND USE ISSUE. THOSE  
ARE

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25            THEY VERY FIRST TWO STATEMENTS.    THEY COULD HAVE

1           BEEN BROUGHT ON BECAUSE OF QUESTIONS OTHER PEOPLE  
2           HAD SAID OR WHATEVER; BUT THE MORE I LISTEN TO  
3           THIS AND THE DETERMINATION OF A ROGUE AND THINGS  
4           LIKE THAT, SOMETIMES I THINK OUR -- YOU KNOW, WE  
5           GET PERSONALITIES INVOLVED AND, YOU KNOW, IT'S  
6           DISCONCERTING BECAUSE WE DON'T HAVE A STANDARD.  
7           WE'RE USING COMMON SENSE ON THE ENFORCEMENT SIDE,  
8           AND WE'RE DETERMINING THAT THE OPERATOR'S A ROGUE,  
9           AND WE'RE NOT TRYING TO PUT HIM OUT OF BUSINESS,  
10          AND IT'S NOT A LAND USE ISSUE, WE'RE LOOKING AT  
11          FLIES, IT'S IN A DAIRY PRESERVE, IT'S IN AN  
12          AGRICULTURAL PRESERVE.

13                       WE'VE GOT -- I WENT AND LOOKED AT  
14          THE COWS BEING FED, AND I THINK THERE WERE A FEW  
15          MORE FLIES OVER THERE THAN IN THE PILES THAT I  
16          SAW. AND I JUST -- YOU KNOW, I'M CONCERNED ABOUT  
17          THAT. I AM CONCERNED THAT WE SOMETIMES GET SO  
18          INVOLVED IN ISSUES THAT WE LOSE TRACK OF WHAT  
19          WE'RE HERE FOR. AND WHAT WE'RE HERE FOR, I THINK,  
20          IS TO DETERMINE IF THIS IS MUNICIPAL SOLID WASTE  
21          AND GREEN MATERIAL.

22                       MR. TRUJILLO: LET ME RESPOND TO THAT  
23          BECAUSE I'M THE ONE THAT'S HAD THE MOST CONTACT  
24          WITH MR. MEIJER. MR. MEIJER IS A VERY PERSONABLE,  
25          AFFABLE GENTLEMAN, AND HAS ALWAYS BEEN POLITE AND

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1 I'VE BEEN POLITE WITH HIM AND ACTED PROFESSIONALLY  
2 AND WHATEVER. I DON'T THINK YOU HEARD US SAY THAT  
3 HE WAS ROGUE OPERATOR. I THINK YOU HEARD US SAY  
4 IT WAS A ROGUE OPERATION.

5 MS. BENNETT: I SAID ROGUE OPERATOR.

6 MR. TRUJILLO: WE MEANT TO SAY IT WAS AN  
7 OPERATION.

8 CHAIRMAN PENNINGTON: I'M NOT SURE THAT  
9 THAT'S GERMANE TO ALL OF --

10 MR. TRUJILLO: JUST TO ANSWER YOUR  
11 QUESTION, THE THING IS THAT WE HAVE, AS PAM  
12 BENNETT INDICATED, WE HAVE COMPOSTERS, WE HAVE  
13 GREEN WASTE SHREDDERS AND MULCHERS IN SAN  
14 BERNARDINO COUNTY. YOU HAVE LETTERS, YOU KNOW,  
15 TESTIMONY, TO THE TYPE OF RELATIONSHIPS WE HAVE  
16 WITH THEM, HELPING THEM COMPLY WITH THE  
17 REGULATIONS. SOME OF THEM EVEN WENT SO FAR TO SAY  
18 IN THE LETTER THAT THIS IS NOT THE TYPE OF  
19 OPERATION THAT THEY WOULD BE PROUD OF. SO IT'S  
20 THE OPERATION ITSELF. AGAIN, AS I SAID EARLIER, I  
21 DON'T THINK THIS TYPE OF OPERATION SHOULD BE  
22 ALLOWED IN ANY ONE OF THE 58 COUNTIES IN THE STATE  
23 OF CALIFORNIA.

24 BOARD MEMBER CHESBRO: WELL, WE SEEM TO  
25 HAVE GOTTEN INTO THE DEBATE PART RATHER THAN THE

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1           QUESTIONS PART, SO I'LL TRY TO MAKE THIS ALSO SORT  
2           OF A QUESTION RATHER THAN TAKING ON MR. JONES'  
3           ASSERTIONS DIRECTLY. BUT DID I NOT HEAR THE LEA  
4           CLEARLY SAY THAT THE VERMICOMPOSTING PORTION OF  
5           THE OPERATION IS NOT SUBJECT TO THE ENFORCEMENT  
6           EFFORT THAT HAS BEEN UNDER WAY AND THAT, IN FACT,  
7           YOU ACCEPTED AND SUPPORT THAT AND THAT THE ISSUE  
8           IS THE 4-INCH MINUS SCREENED MATERIALS AND THAT,  
9           IN EFFECT, CONSTITUTES EVIDENCE THAT YOU ARE NOT  
10          TAKING IT PERSONALLY. YOU'RE TRYING TO ADDRESS  
11          THE SPECIFIC PROBLEMS ON THIS SITE.

12                   MR. TRUJILLO: CORRECT.

13                   BOARD MEMBER CHESBRO: THANK YOU.

14                   BOARD MEMBER JONES: JUST ONE REAL QUICK  
15          QUESTION. IS THE PROBLEM THE AMOUNT OF MATERIAL  
16          OR THE TYPE OF THE MATERIAL?

17                   MR. TRUJILLO: I WOULD SAY IT'S BOTH.

18                   BOARD MEMBER JONES: WOULD THE SAME TYPE  
19          OF MATERIAL IN A LESSER AMOUNT BE ACCEPTABLE?

20                   MR. TRUJILLO: IF IT WERE CAUSING THE  
21          PROBLEMS THAT'S IT'S CAUSING NOW, NO, IT WOULD

NOT

22          BE ACCEPTABLE.

23                   BOARD MEMBER JONES: THE PROBLEMS BEING  
24          THE FLIES, THE LEACHATE, THE THIS, THE THAT, THE  
25          THINGS THAT YOU SHOWED IN THE --



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1 OBJECTIVITY. I GUESS EVERY DAY, AS WE GO THROUGH  
2 A WORK SCHEDULE, WE LEARN TO APPRECIATE THE  
3 ENGLISH LANGUAGE EVEN MORE. NOW, IF YOU ARE A  
4 ROGUE, THAT'S DIFFERENT FROM RUNNING A ROGUE  
5 OPERATION, SO I GUESS THAT'S DIFFERENT. THAT'S  
6 NOT, IN EFFECT, WHAT'S BEING IMPLIED IN THAT  
7 PARTICULAR COMMENT.

8 LET ME JUST SAY THIS. I THINK YOU  
9 HEARD A LOT OF EMOTIONAL ISSUES, BUT I THINK THAT  
10 THE MAJORITY OF THE MEMBERS OF THE BOARD WHO HAVE  
11 ASKED SOME QUESTIONS, I THINK HAVE BEEN VERY  
12 INSIGHTFUL. AND WHAT IS THE BASIC ISSUE? WE GET  
13 INTO THE DISCUSSION 4-INCH, 4-INCH MINUS,  
14 INCH-AND-A-QUARTER. THE REALITY IS THIS. WE HAVE  
15 AN INDUSTRY THAT'S GOING TO GROW IN CALIFORNIA. I  
16 DON'T THINK THAT THERE'S ANY QUESTION THAT THERE'S  
17 GOING TO HAVE TO BE SOME TYPE OF REGULATION.  
18 WE'VE ALREADY GONE THROUGH THE LAND USE BATTLE  
19 WITH THE SAN BERNARDINO COUNTY. WE MAY HAVE TO  
20 TAKE THAT ONE STEP FURTHER.

21 HOPEFULLY WE WILL DEAL WITH THE  
22 ISSUE OF THE TRANSFER STATION TODAY ONLY WITH A  
23 POTENTIAL OF LOOKING AT THE ISSUE OF A LANDFILL  
24 ISSUE NEXT. I MEAN WHAT ARE WE GOING TO BE

NEXT

25 WEEK? THE REALITY IS THAT THERE IS A

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SUSTAINED

1           EFFORT ON THE PART OF A POLICY -- OF A PUBLIC  
2           AGENCY TO EXCLUDE A SPECIFIC USE FROM A SITE.

3                       ZONING BY DEFINITION IS  
4           EXCLUSIONARY. THAT DID NOT WORK. YOU CAN'T DO IT  
5           BY ZONING, THEN YOU GO TO THE PERMIT PROCESS.  
6           NOW, HERE, AS I UNDERSTAND THE CONVERSATION AND  
7           GETTING TO MR. JONES' ISSUE IN TERMS OF  
8           PERMITTING, IT DOESN'T MATTER IF IT'S  
9           INCH-AND-A-QUARTER. IT DOESN'T MATTER IF IT'S  
10          4-INCH. THE LEA'S POSITION IS ANY GREEN WASTE,  
11          ANY FOOD THAT IS BROUGHT ON FOR STOCK ON THAT SITE  
12          THAT IS PROCESSED IS GOING TO REQUIRE A PERMIT.

13                      IN THE STAFF'S ANALYSIS AND THEIR  
14          REPORT, THEY INDICATE THAT THERE'S AN AGREEMENT ON  
15          THE PART OF BOTH PARTIES THAT INCH-AND-A-QUARTER  
16          IS EXEMPT. WELL, IF THAT'S THE CASE, EXEMPT TO ME  
17          MEANS THAT IF YOU HAVE INCH-AND-A-QUARTER COMING  
18          ON BOARD AS FEED FOR THE VERMICULTURE ACTIVITY,  
19          THEN IT DOESN'T NEED A TRANSFER STATION OR A WASTE  
20          MANAGEMENT PERMIT.

21                      IF THAT'S NOT THE INTENT OF THE LEA  
22          IN SAN BERNARDINO, THEN WE DON'T SUPPORT THE STAFF  
23          RECOMMENDATION BECAUSE, IN FACT, INCH-AND-A-  
24          QUARTER IS NOT EXEMPT. IT IS OUR INTENTION AT  
25          THIS PARTICULAR POINT NOT TO USE ANY MORE 4-INCH

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1 WASTE MATERIAL IN OUR VERMICULTURAL ACTIVITY  
2 BECAUSE WE DON'T WANT TO BE PART OF THE PROCESS.  
3 WE DON'T WANT TO GO BEFORE THEM FOR A PERMIT  
4 BECAUSE THIS IS THE KIND OF ATTITUDE THAT WE GET.

5 I CHALLENGE THE STAFF MEMBER TO COME  
6 UP HERE AND BRING THE DAMN HYPODERMIC NEEDLE. I  
7 WANT TO SEE A PICTURE OF IT ON THE VIDEO. I WANT  
8 TO KNOW HOW MANY FIREMEN WERE STUCK IN THAT FIRE  
9 BY A HYPODERMIC NEEDLE.

10 I CAN WALK UP TO THE MIKE AND SAY,  
11 OH, WE HAVE HYPODERMIC NEEDLES AND WE HAVE  
12 THREATS. YOU KNOW, AS A PUBLIC EMPLOYEE THAT HAS  
13 TAKEN THE OATH, TESTIFYING BEFORE THIS BOARD HERE  
14 TODAY, TO PROMISE TO TELL THE TRUTH AND SWEAR TO  
15 THE PUBLIC RECORD, IF I MAKE THOSE KINDS OF  
16 COMPELLING ALLEGATIONS, BY GOD, I OUGHT TO HAVE  
17 THE EVIDENCE.

18 I THINK IT'S VERY, VERY CLEAR AT  
19 THIS PARTICULAR POINT THAT -- PERHAPS I'VE LOST MY  
20 COMPOSURE A BIT. LET ME TAKE A DEEP BREATH. BUT  
21 THE ISSUE IS THIS. WE HAVE A BUSINESS. WE WANT  
22 TO OPERATE THAT BUSINESS. THE UNDERLYING ZONING  
23 IS PERMISSIVE. WE HAD TO GO TO COURT TO PROVE  
24 THAT. IF YOU WANT -- IF THIS BOARD WANTS TO TAKE  
25 THE TASK OF DEVELOPING REGULATIONS THAT MAKE SENSE



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1 TO REGULATE AN INDUSTRY THAT IS GOING TO GROW IN  
2 CALIFORNIA, BENEFIT CALIFORNIA, THEN THAT'S  
3 RIGHTFULLY YOUR ROLE.

4 FOR SOMEONE TO STAND UP AND SAY THAT  
5 IF YOU, IN FACT, COME FORWARD WITH A COMMON SENSE  
6 DECISION ON THIS PARTICULAR APPEAL THAT YOU ARE  
7 GOING TO SEND THE WRONG MESSAGE TO BOARDS. LADIES  
8 AND GENTLEMEN OF THE BOARD, THERE WERE NO  
9 STANDARDS. MR. JONES MADE THAT CLEAR. HOW DO YOU  
10 JUDGE US A ROGUE OPERATION WHEN YOU DON'T HAVE ANY  
11 STANDARDS?

12 BOARD MEMBER RELIS: MR. MARTINEZ, I HAVE  
13 TO INSERT AT THIS POINT. I'VE BEEN TO THE SITE.  
14 I'VE LOOKED AT IT. THERE IS A LOT OF CONTAMINA-  
15 TION THERE. NOW, WE CAN DISPUTE THE RESIDUAL, BUT  
16 THE COUNTY DIDN'T CREATE THE PROBLEM.

17 THERE ARE TERMS LIKE COMMON SENSE  
18 BEING THROWN OUT IN THE COURSE OF THIS DEBATE, BUT  
19 WHERE WAS THE COMMON SENSE IN CREATING THE PILE?  
20 DO YOU DISPUTE THAT THAT WAS AN EXERCISE IN GOOD  
21 JUDGMENT IN WEIGHING THE RATIOS BETWEEN YOUR  
22 ABILITY TO PROCESS AND YOUR ABILITY TO TAKE IN  
23 MATERIAL? I MEAN I FIND SOME PROBLEM WITH YOUR  
24 REASONING.

25 MR. MARTINEZ: I'M NOT PRESENTING ANY

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1 REASON. WHAT YOU ARE GETTING FROM ME IS EMOTION,  
2 HONEST EMOTION. AND I THINK THAT THAT'S PROBABLY  
3 WHAT OUGHT TO BE HEARD. I THINK FROM A REASON  
4 PERSPECTIVE, WE HAVE HEARD THAT WE'RE NOW A  
5 LANDFILL BECAUSE NOTHING HAS BEEN PROCESSED. BOY,  
6 I WONDER WHY. WE'VE BEEN UNDER AN ORDER NOT TO DO  
7 ANYTHING.

8 AND WE HAD A BASIC -- WE HAVE A  
9 FUNDAMENTAL DISAGREEMENT WITH THE COUNTY OF SAN  
10 BERNARDINO AS TO WHETHER OR NOT WE HAVE THE RIGHT  
11 TO UTILIZE THAT MATERIAL, AND IT'S BEING LITIGATED  
12 IN THE COURTS.

13 BOARD MEMBER CHESBRO: EXCUSE ME. ISN'T  
14 THE ORDER TO PROCESS IT? I THOUGHT IT WAS THAT --

15 MR. MARTINEZ: TO REMOVE IT FROM THE  
16 SITE.

17 BOARD MEMBER CHESBRO: REMOVE OR TO APPLY  
18 FOR A PERMIT.

19 MR. MARTINEZ: THAT'S CORRECT. OUR BASIC  
20 CONTENTION IS THAT WE DON'T HAVE TO APPLY FOR A  
21 PERMIT BECAUSE WE DON'T FIT UNDER THAT SECTION.  
22 SO WE'RE ENTITLED TO A LEGITIMATE DISAGREEMENT,  
23 AREN'T WE? THAT'S ALL WE'RE DOING. WE'RE  
24 DISAGREEING WITH THE COUNTY. WE'RE SAYING WE  
25 DON'T COME UNDER THAT SECTION. WE'RE EXEMPT.

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1                   SO THAT'S WHY -- THAT'S ONE OF THE  
2       DISCUSSIONS THAT WE'RE HAVING HERE TODAY. DO WE  
3       OR DO WE NOT FIT UNDER THAT SECTION? GRANTED, I  
4       WOULD AGREE WITH YOU, THE -- CERTAINLY THE  
5       DEFINITION OF COMMON SENSE HAS BEEN STRETCHED IN  
6       BOTH DIRECTIONS. BUT I GUESS THE POINT I'M TRYING  
7       TO MAKE TODAY IS WE'RE NOT VERMICOMPOSTING.  
8       HOPEFULLY EVERYONE WILL LEAVE HERE TODAY KNOWING  
9       THAT WE'RE VERMICULTURE. WE'RE UNDER THE SECTION  
10      OF 23.7, SO WE WON'T HEAR ANY MORE COMPOSTING.  
11      WE'RE MERELY PROCESSING OUR FEED FOR OUR STOCK ON  
12      SITE, JUST LIKE ANY OTHER AGRICULTURAL ACTIVITY  
13      THAT DOES THAT.

14                   AND THAT'S THE ONLY POINT I'M  
TRYING  
15      TO MAKE. WE'RE NO DIFFERENT THAN ANY OTHER  
16      AGRICULTURAL ACTIVITY NOW BECAUSE OF SOURCE OF  
THE  
17      FOOD MAY BE DIFFERENT OR IS DIFFERENT. LET'S FOR  
18      AN ARGUMENT SAKE, LET'S SAY 13 PERCENT GOES BACK.  
19      MATHEMATICALLY WHAT I MEAN. MY MATH ISN'T REAL  
20      GOOD. BUT ISN'T THAT 87 PERCENT THAT'S USED?  
21      THAT CAN HARDLY BE CLASSIFIED AS INCIDENTAL TO  
THE  
22      OPERATION. THAT'S NOT INCIDENTAL. THAT'S 87  
23      PERCENT.

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24 SO LET'S ASSUME FOR A SECOND THAT  
WE  
25 DO OR THE BOARD OR SOMEONE DECIDES THAT 10  
PERCENT

1           IS THE THRESHOLD. THAT'S 90 PERCENT. IS THAT  
2           INCIDENTAL? HOW DOES 90 PERCENT VERSUS 87  
3           PERCENT, HOW DO WE MOVE FROM INCIDENTAL TO ALL OF  
4           A SUDDEN AN UNACCEPTABLE THRESHOLD, THE THREE  
5           POINTS? SO COMMON SENSE, YEAH, IT'S BEEN  
6           STRETCHED. BUT I GUESS THAT'S WHAT WE'RE ASKING  
7           HERE FROM YOU TODAY IS FOR A LITTLE COMMON SENSE  
8           IN THIS PROCESS.

9                         LET US MOVE FORWARD. WE'LL GET THE  
10          4-INCH OFF SITE. WE'LL EITHER PROCESS IT OR GET  
11          RID OF IT, SEND IT BACK TO WHERE IT CAME FROM.  
12          I'M NOT SPEAKING FOR MR. MEIJER RIGHT NOW BECAUSE  
13          HE OBVIOUSLY IS GOING TO MAKE THAT DECISION. BUT  
14          THERE IS A REMEDY THERE.

15                        SECONDLY, WE ARE COMMITTED TO ONLY  
16          USING INCH-AND-A-QUARTER AS LONG AS WE DON'T HAVE  
17          TO APPLY FOR A PERMIT AS APPLIED UNDER THOSE  
18          GUIDELINES BECAUSE WE STILL DON'T THINK THAT WE'RE  
19          GOING TO GET EVENHANDED TREATMENT. THANK YOU.

20                        CHAIRMAN PENNINGTON: THANK YOU. MR.  
21          MEIJER.

22                        MR. MEIJER: THANK YOU, SIR. I'M SORRY  
23          TEMPERS ARE FLARING A LITTLE BIT.

24                        SIR, I'D LIKE US TO GO TO THE  
25          DEPARTMENT OF ENVIRONMENTAL HEALTH LOCAL



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1 ENFORCEMENT INDEPENDENT HEARING PANEL'S ORDER ON  
2 PAGE 2, IF POSSIBLE.

3 MR. BLOCK: THAT'S IN TAB 11 OF THE  
4 NOTEBOOKS THAT I PREPARED FOR THE BOARD.

5 CHAIRMAN PENNINGTON: TAB 11, PAGE 2.

6 MR. MEIJER: MR. PENNINGTON, I DID NOT  
7 APPEAL THIS BECAUSE I WANT TO CONTINUE RECEIVING  
8 4-INCH MATERIAL. I DID NOT APPEAL THIS BECAUSE I  
9 DON'T WANT TO PROCESS THE 4-INCH MATERIAL. IF YOU  
10 GO TO PAGE 2, AND THERE ISN'T A LINE NUMBER, BUT  
11 IT'S ABOUT HALFWAY UP AND THERE'S A COMMA, AND IT  
12 SAYS, "GREEN MATERIAL THAT HAS BEEN PRESCREENED  
13 ONE AND A QUARTER INCH MINUS PRIOR TO DELIVERY  
14 WHICH CAN BE APPLIED DIRECTLY TO THE VERMICULTURE  
15 BEDS WITHOUT ANY FURTHER PROCESSING ON SITE --  
16 EXCUSE ME. CORRECT THAT -- ON-SITE PROCESSING  
17 WOULD NOT REQUIRE A SOLID WASTE FACILITIES  
18 PERMIT."

19 THE CONCERN THAT I HAVE IS WITH THAT  
20 PASSAGE. OKAY. AND THAT BRINGS ME BACK TO THE  
21 FUNDAMENTAL ISSUE THAT I BELIEVE IS BEFORE THE  
22 BOARD TODAY. AND THAT IS IS A VERMICULTURE  
23 FACILITY PERMITTED TO DO ANY PROCESSING PRIOR TO  
24 THE FEEDING OF THE WORM BEDS? ARE WE ALLOWED TO  
25 MIX MATERIAL? ARE WE ALLOWED TO SIZE MATERIAL?

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1           WHAT ARE WE ALLOWED TO DO?

2                       NOW, ONE OF THE THINGS WE DID IS WE  
3           DID RECEIVE SOME ONE-AND-A-QUARTER-INCH MATERIAL  
4           THAT I FED DIRECTLY ONTO THE WORM BEDS. IT  
5           ACTUALLY WORKED QUITE WELL. THE ONLY PROBLEM WAS  
6           WITHIN EIGHT DAYS, WE HAD THE GREENEST WORM BEDS  
7           I'D EVER SEEN BECAUSE EVERY TOMATO SEED, EVERY  
8           PUMPKIN SEED, EVERY CORN SEED GERMINATED IN OUR  
9           WORM BEDS, AS WELL AS BECAUSE MOST OF THE MATERIAL  
10          THAT WE RECEIVED IS GRASS CLIPPINGS, WHEN YOU  
11          START -- THE MATERIAL RECOVERY FACILITY NEVER  
12          GROUND ANYTHING. SO MOST OF THE MATERIAL WE  
13          RECEIVE WERE EITHER LEAVES OR GRASS.

14                      THE PREDOMINANT GRASS IN OUR AREA IS  
15          BERMUDA GRASS, AND UNLESS WE'RE PREPARED TO DO  
16          SOME PROCESSING TO IT, COMPOSTING THE MATERIAL,  
17          THE BERMUDA GRASS, THE SHORTER PIECES, THEY'RE  
18          ASEXUAL. CONSEQUENTLY, WHEN WE ADD THEM TO THE  
19          WORM BEDS, THEY IMMEDIATELY START GROWING. AND  
20          THERE'S NO WAY TO ERADICATE THE BERMUDA FROM THESE  
21          WORM BEDS. WITH THE CONSEQUENCES, THAT WAS MY  
22          MAJOR CONCERN.

23                      THIS ISN'T WHETHER WE'RE GOING TO  
24          PROCESS THE 4-INCH MATERIAL OR NOT. OKAY. IT HAS  
25          TO DO ARE WE ALLOWED TO PROCESS?

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1                   NOW, THE STANDARD, THE TWO-PART  
2                   STANDARD THAT YOU CAME UP WITH, I FELT SORT OF FIT  
3                   IN WITH GOOD COMMON SENSE. YOU KNOW, YOU CAN'T  
4                   HAVE MORE THAN 10-PERCENT RESIDUAL. DOESN'T SEEM  
5                   AN UNREASONABLE STANDARD TO ME. AND I THINK THAT  
6                   YOU SAY TO SOMEBODY, AS YOU ARE IN THE PROPOSED  
7                   REGULATIONS THAT ARE CHANGING THE TRANSFER  
8                   STATIONS, YOU ARE SAYING WE'RE GOING TO GIVE  
9                   PEOPLE A CERTAIN AMOUNT OF TIME TO COME IN WITH  
10                  THAT.

11                  I MEAN WE'VE OBVIOUSLY ASKED THE  
12                  WASTE HAULERS -- I MEAN THE PAGES THAT WE'VE GIVEN  
13                  YOU THERE ARE OUT OF THE WASTE HAULERS' CONTRACTS.  
14                  AND THEY SPECIFICALLY UNDERSTOOD WHEN THEY ENTERED  
15                  INTO THESE AGREEMENTS WITH US THAT, IF NEED BE,  
16                  THEY WOULD HAVE TO CLEAN THE MATERIAL  
17                  ADDITIONALLY.

18                  AND WE, IN FACT, WROTE A LETTER TO  
19                  THE WASTE BOARD, AND I BELIEVE IN OCTOBER 1995,  
20                  EXPLAINING OUR PROCESS AND GOING THROUGH EXACTLY  
21                  WHAT WE DO BECAUSE WE WERE EXTREMELY CONCERNED  
22                  ABOUT AB 9 -- NO, NOT 939. THE ONE THAT CAME OUT  
23                  IN OCTOBER -- 59. WE WERE REALLY -- I MEAN OUR  
24                  WASTE HAULERS FELT THAT THIS IS A LONG-TERM  
25                  OPERATION. THE CONTRACTS THAT WE HAVE WITH THESE

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1           THREE WASTE HAULERS WERE EVERGREEN CONTRACTS. SO  
2           CONSEQUENTLY THEY HAD MAJOR CONCERNS THAT IF  
3           SOMEBODY CAME BACK TO US AND SAID WE NEEDED A  
4           SOLID WASTE FACILITIES PERMIT, THEY COULD HAVE  
AN  
5           INTERRUPTION. OKAY. SO THAT IS WHY WE WROTE  
THE  
6           LETTER TO THE BOARD.  
7                           I MEAN WE WANTED A CERTAIN LEVEL  
OF  
8           COMFORT, AND I THINK THAT'S WHY THEY INCLUDE IT  
IN  
9           THEIR CONTRACTS THAT THEY WOULD BE PREPARED TO  
10          ADDITIONALLY CLEAN. AND I THINK THE WASTE  
HAULERS  
11          HAVE DONE SO. THE TWO WASTE HAULERS THAT ARE  
NOT  
12          SHIPPING TO US THAT ARE SHIPPING TO AMCOR  
FARMS, I  
13          NOTICE THAT THEY HAVE BOTH ADDED ADDITIONAL  
14          SCREENS AT THEIR FACILITY TO CLEAN OUT  
ADDITIONAL  
15          CONTAMINATION.  
16                           SO THEN IT COMES TO ANOTHER  
ISSUE,  
17          SIR. YOU ASKED ME ABOUT THE COMMON SENSE OF



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18 STOCKPILING THAT MUCH MATERIAL, AND I  
APPRECIATE  
19 THE QUESTION. A LOT OF IT HAS TO DO IS THAT  
WHEN  
20 YOU FIRST CAME TO MY SITE, MR. FRAZEE, WE ONLY  
HAD  
21 11 WORM BEDS. WE HAVE GROWN OVER TIME. I  
ENTERED  
22 INTO AGREEMENTS WHERE THEY WERE GOING TO SHIP  
ME X  
23 AMOUNT OF TONS. OKAY. THERE WASN'T THE  
24 OPPORTUNITY FOR ME TO GET CONTRACTS FOR 10 TONS  
A  
25 DAY OR 15 TONS, SO I FEEL IN THE BEGINNING WE

1           DEFINITELY TOOK IN MORE MATERIAL THAN WHAT WE  
2           COULD FEED.

3                        THAT SCALE TIPPED IN OUR BALANCE  
4           LAST YEAR, AND WE SHOULD HAVE BEEN FEEDING MORE  
5           THAN WHAT WE HAVE. WE SHOULD HAVE BEEN GOING OUT  
6           AND SOLICITING ADDITIONAL CONTRACTS THIS YEAR TO  
7           BE ABLE TO KEEP UP WITH WHAT OUR WORMS CAN EAT.  
8           BUT, SIR, I HAVEN'T BEEN IN VERMICULTURE SINCE  
9           SEPTEMBER OF LAST YEAR. I CAN TELL YOU THAT  
HERE.

10                      I HAVEN'T DONE, I THINK, FIVE DAYS  
11           WORTH OF WORK ON THE WORM FARM. YOU KNOW WHAT  
12           I'VE DONE, SIR? I HAVE GONE AND I HAVE READ THE  
13           COUNTY'S PLANNING -- THE COUNTY'S GENERAL PLAN.

I  
14           HAVE READ EVERY ZONING ORDINANCE THERE IS. AND  
15           BECAUSE I HAD AN ISSUE WITH THE PLANNING  
16           DEPARTMENT, I MEAN I FOUGHT THEM TO THE  
CALIFORNIA

17           APPEALS COURT WHERE A TENTATIVE NOTICE WAS  
18           ORDERED. I MEAN THAT DIDN'T JUST HAPPEN.  
19           SOMEBODY NEEDED TO DO ALL THAT RESEARCH. I MEAN  
20           AN EMPLOYEE COMES IN WITH A PROBLEM AND I SAY  
JUST

21           TAKE CARE OF IT. OKAY. I'VE GOT TO DEAL WITH  
22           THIS RIGHT NOW. I MEAN OUR LIVES ARE ON THE

LINE.

103

1           ACTUALLY I'VE BEEN PREPARING FOR THIS SINCE WHO  
2           KNOWS WHEN. I HAVEN'T DONE ANY WORK. ALL I'VE  
3           BEEN DOING IS THIS. I MEAN SO REALLY, YES. THE  
4           OTHER ISSUE COMES TO MIND IS IN ORDER TO GET TO  
5           WHERE WE WERE WITH REGARDS TO THE PLANNING APPEAL  
6           GOING TO THE CALIFORNIA APPEALS COURT, IT COST ME  
7           \$150,000. RESNICK & RESNICK DOES NOT WORK FOR  
8           FREE. THEY WANT TO BE PAID UP FRONT. TO GET TO  
9           HERE TODAY COST ME \$75,000 IN CASH.

10                       WHAT HAVE I DONE WITH MY EQUIPMENT?  
11           I MEAN IN THE PICTURE YOU SAW THE SAME SCREEN  
12           TWICE. I HAVE FIVE TRAMMEL SCREENS. I'VE SHIPPED  
13           THEM OUT AND RENTED THEM OUT TO PEOPLE SO THAT I  
14           CAN SURVIVE, NOT BECAUSE I'M A ROGUE OPERATOR, I  
15           BELIEVE, BUT BECAUSE I FEEL THAT I HAVE A  
16           COMMITMENT TO THE WASTE HAULERS THAT I'VE MADE TO  
17           PROCESS THEIR MATERIAL.

18                       I'VE OPENED A FACILITY IN  
19           BAKERSFIELD NOT BECAUSE I WANT TO GO DRIVE TO  
20           BAKERSFIELD. IT'S A HUNDRED 56 MILES FROM MY  
21           HOUSE. IF I DRIVE THERE, I AM DEAD BEAT. I USED  
22           TO HAVE A LANDSCAPE COMPANY IN STANTON, WHICH I  
23           STILL OWN, EXCEPT I'VE SCALED IT DOWN. I STILL  
24           OWN THE PROPERTY IN STANTON WHERE WE SOLD OUR  
25           GREEN WASTE BECAUSE IT GOT TO BE SO EXPENSIVE AND

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1 THE CITY TOOK ME TO COURT, AND THE CASE WAS  
2 DISMISSED. I HAVE THE DISMISSAL PAPER.

3 AND THEN WE FELT THAT THIS WAS  
4 REALLY THE FUTURE WAS THAT THERE'S GOING TO BE A  
5 MAJOR MARKET, AND THAT'S HOW WE ENDED UP WHERE WE  
6 ARE TODAY. I MEAN I'VE MADE A COMMITMENT TO DO  
7 THIS. OKAY. WHEN I FELT THAT WE WERE IN JEOPARDY  
8 AS FAR AS PLANNING WAS CONCERNED, WE LOOKED AT  
9 BAKERSFIELD. WE'RE TRUCKING MATERIAL FROM ORANGE  
10 COUNTY TO BAKERSFIELD. THAT'S A 300-MILE ROUND  
11 TRIP. AND, YOU KNOW, I HAVE TO STAND HERE AND  
12 QUESTION FOR MYSELF IS IT REALLY WORTH RECYCLING  
13 MATERIAL IF WE HAVE TO HAUL IT 300 MILES TO BE  
14 ABLE TO RECYCLE IT? SHOULDN'T WE JUST STICK IT IN  
15 THE LANDFILL AND BURY IT?

16 I MEAN THERE'S SOME -- I MEAN I'M  
17 NOT JUST OUT THERE AS A ROGUE. I FEEL THAT I HAVE  
18 TRIED TO MEET THE COMMITMENTS THAT I HAVE MADE TO  
19 PEOPLE.

20 AS FAR AS THE WATER BOARD IS  
21 CONCERNED, THEY HAVE NOT COME TO ME WITH ANYTHING.  
22 WHATEVER THEY COME TO ME WITH, I BELIEVE THAT WE  
23 WILL FILE FOR THE PROPER EXEMPTIONS. I BELIEVE  
24 THAT THEY ARE THERE FOR US. THE ONLY ISSUE THAT  
25 WE HAVE THERE IS WE SHARE THE PROPERTY WITH A

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1       DAIRY, AND WE HAVE BECOME AWARE THE DAIRY DOES NOT  
2       HAVE A WATER DISCHARGE PERMIT. AND THE WATER FROM  
3       THE DAIRY IS PUMPED INTO THESE THREE GREEN PONDS.  
4       AND THIS POND OVER HERE IS TO CATCH ANY STORM  
5       RUNOFF FROM HERE.

6               AS FAR AS THE LEACHATE AROUND THE  
7       PILES, YES, IT EXISTS. AND ONE OF THE REQUIRE-  
8       MENTS THAT WE HAVE WITH THE NEW STORAGE FACILITY  
9       IS THAT WE KEEP PATHOGENS DOWN. THESE PATHOGENS  
10      GENERALLY EXIST IN DUST, AND WE HAVE PLACED  
11      SPRINKLERS FOR TWO REASONS ON THE PILES. ONE IS  
12      TO CONTROL DUST AND BLOWING OF PATHOGENS, AND THE  
13      SECOND ONE IS BECAUSE THE FIRE DEPARTMENT HAS AN  
14      ORDINANCE THAT SAYS NO ORGANIC MATERIAL CAN BE  
15      STORED IN PILES LARGER THAN 42,000 CUBIC FEET, NOT  
16      YARDS, BUT FEET.

17             AND I JUST WANT TO BRING US BACK TO  
18      THE CENTRAL ISSUE HERE IS ARE WE ALLOWED TO  
19      PROCESS OR NOT? AND I WOULD RESPECTFULLY REQUEST  
20      THAT YOU APPLY THE 10-PERCENT RULE. THE NUMBERS  
21      THAT WE HAVE GIVEN YOU THERE DO NOT COME JUST FROM  
22      US. I MEAN THEY'RE OBVIOUSLY AVAILABLE FROM THE  
23      THREE WASTE HAULERS. THEIR NAMES ARE ON THERE.  
24      YOU CAN GO BACK AND YOU CAN VERIFY WITH THEM WHAT  
25      WE'VE SHIPPED BACK TO THEM.



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1                               AND IN CONCLUSION, I REALLY WOULD  
2               LIKE YOU TO OVERTURN THE HEARING PANEL'S  
DECISION.

3               AND WE ARE NOT OPPOSED TO SOMETHING THAT ELLIOT  
4               BASICALLY SUGGESTED WHERE THERE IS A  
VERIFICATION.

5               THANK YOU VERY MUCH, MR. CHAIRMAN AND BOARD  
6               MEMBERS.

7                               BOARD MEMBER GOTCH: QUESTION, MR.  
CHAIR.

8                               CHAIRMAN PENNINGTON: YES, MRS. GOTCH.

9                               BOARD MEMBER GOTCH: MR. MEIJER, I DON'T  
10              KNOW IF YOU'VE ANSWERED THIS SPECIFICALLY. AND  
11              THAT IS WHAT DO YOU PROPOSE TO DO WITH THE 4-INCH  
12              MATERIAL, 4-INCH MINUS MATERIAL?

13                              MR. MEIJER: I'M SORRY, MS. GOTCH. ONE  
14              OF THE THINGS, WHAT WE INTEND TO DO IS JUST  
15              PROCESS IT THROUGH OUR SYSTEM. I MEAN WE USED TO  
16              HAVE -- CAN I TURN AROUND WHEN I'M TALKING TO  
YOU?

17                              BOARD MEMBER GOTCH: CERTAINLY.

18                              MR. MEIJER: THIS AREA HERE TO HERE USED  
19              TO BE 4-INCH MATERIAL AS WELL. OKAY. THE INTENT  
20              LAST YEAR WAS WHEN WE MADE A CHANGE IN JULY WAS  
21              WHEN WE STARTED LOOKING AT THE MATERIAL, THAT WE  
22              WOULD CONVERT THIS WHOLE AREA TO WORM BEDS, OKAY,

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23           AS WELL AS THIS WHOLE AREA, OKAY, AND MOVE OUR  
24           PROCESSING INTO THIS AREA UP HERE, AND THIS WOULD  
25           MOSTLY BE WORM BEDS.   AND THAT MATERIAL WOULD  
JUST

1 BE FED. WE WOULD SCREEN THE MATERIAL, SEND THE  
2 OVERS BACK, AND JUST CONTINUE PROCESSING.

3 BUT I MEAN THE INTENT OF THE COUNTY  
4 HAS BEEN TO DO AS MUCH ECONOMIC DAMAGE TO US AS  
5 POSSIBLE. AND CONSEQUENTLY I MEAN WE'RE AT A  
6 SITUATION WHERE WE JUST NEED TO GET BACK IN  
7 BUSINESS OF DOING WHAT WE ARE SUPPOSED TO DO AND  
8 THAT'S WORM FARMING, NOT ZONING AND PLANNING AND  
9 LEA STUFF.

10 AND I DON'T HAVE A PROBLEM WITH THE  
11 LEA COMING OUT AND INSPECTING US. THAT'S  
12 SOMETHING I REALLY WANT TO JUST TALK ABOUT FOR A  
13 MINUTE. THE LEA CAME TO ME AND SAID WE WOULD  
LIKE

14 TO INSPECT THE SITE. WE WOULD LIKE TO VIDEOTAPE  
15 IT, AND WE WOULD LIKE YOU TO PROVIDE US WITH THE  
16 NAMES OF PEOPLE WHO HAVE PURCHASED YOUR MATERIAL.  
17 THIS MADE ME EXTREMELY UNCOMFORTABLE. AND I SAID  
18 TO MR. TRUJILLO, "WHY DO YOU NEED THIS?"

19 HE SAYS, "WELL, WE NEED THIS  
BECAUSE

20 WE HAVE TO PROVIDE THIS MATERIAL TO MR. BLOCK FOR  
21 THIS HEARING." AND I SAID, "YOU KNOW, THAT DATE  
22 HAS ALREADY GONE BY. YOU SHOULD HAVE HAD IT IN  
23 LAST WEEK." AND THEY SAID, "WELL, WE ACTUALLY  
24 NEED IT FOR OUR NEXT ACTION, WHICH IS THAT YOU

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ARE

25 A LANDFILL. "

1                   AND I SAID TO THEM, "YOU KNOW, I  
2                   HAVE A REAL PROBLEM. I DON'T MIND YOU INSPECTING  
3                   THE SITE, BUT I HAVE A PROBLEM WITH YOUR  
4                   VIDEOTAPING AND MEASURING IT AND PROVIDING YOU  
5                   WITH RECORDS OF WHOM I'VE SOLD MATERIAL TO." AND  
6                   THE REASON FOR THAT IS TWOFOLD. ONE, I DON'T  
7                   BELIEVE IT'S ANYBODY'S BUSINESS WHO WE SELL  
8                   MATERIAL TO. WE'RE REQUIRED TO, UNDER THE  
9                   EMERGENCY REGULATIONS, PROVIDE YOU WITH HOW MANY  
10                  TONS OF MATERIAL WE PRODUCE. AND I DON'T THINK  
11                  THAT'S UNREASONABLE. AND I THINK ON AN INDIVIDUAL  
12                  BASIS, MAYBE WE'RE NOT OPPOSED TO TELLING YOU WHO  
13                  WE SELL MATERIAL TO.

14                 THE PROBLEM I HAVE IS WE HAD A  
15                 REALLY NICE ACCOUNT WITH CALTRANS WHICH TOOK ABOUT  
16                 70,000 TONS THE PRIOR YEAR. MR. TRUJILLO HAD A  
17                 CONVERSATION WITH CALTRANS AND SAID TO THEM, "YOU  
18                 KNOW, WE HAVE A REAL CONCERN WITH THAT MATERIAL.  
19                 IT CONTAINS NEEDLES AND DIAPERS." CALTRANS CAME  
20                 BACK TO ME AND SAID, "YOU KNOW, YOU HAVE A REAL  
21                 PROBLEM WITH THE COUNTY." AND WE SAT DOWN AND WE  
22                 DISCUSSED IT. I MEAN THEY WEREN'T UNREASONABLE.  
23                 AND THE AGREEMENT WE BASICALLY HAD IS WE'RE NOT  
24                 GOING TO SHIP THEM ANY NEW MATERIAL UNTIL THIS  
25                 WHOLE MATTER IS HANDLED.

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1                   SO THAT WAS MY MAIN REASON FOR NOT  
2                   WANTING TO PROVIDE AT THAT TIME WHO OUR END  
3                   MARKETERS ARE. THE LEA THEN WENT TO COURT AND  
4                   ASKED FOR AN INSPECTION WARRANT, WHICH, YOU KNOW,  
5                   THEY ALREADY HAD THE RIGHT TO INSPECT THE  
6                   FACILITY. THAT WAS NOT WHAT WE DENIED. AND THEN  
7                   THEY ALSO DIDN'T TELL THE JUDGE THAT WE'RE IN  
8                   CURRENT LITIGATION WITH THE COUNTY. THAT MADE ME  
9                   EXTREMELY UNCOMFORTABLE.

10                  I THINK THERE NEEDS TO BE A LITTLE  
11                  MORE FAIRNESS. AND I FELT AT THAT POINT THERE  
12                  NEEDED TO BE A LITTLE MORE FAIRNESS TOWARD US.

13                  BOARD MEMBER GOTCH: IF I MAY, THOUGH,  
14                  CLARIFY THE QUESTION OR YOUR ANSWER TO THE  
15                  QUESTION. SO YOU'RE TELLING THE BOARD, THEN, THAT  
16                  YOU DO PLAN ON PROCESSING?

17                  MR. MEIJER: WE ABSOLUTELY DO.

18                  BOARD MEMBER GOTCH: OR REMOVING THE  
19                  4-INCH MINUS MATERIAL.

20                  MR. MEIJER: WE ARE HOPING TODAY TO LEAVE  
21                  HERE WITH THE DECISION THAT WE'RE ENTITLED TO  
22                  PROCESS PRIOR TO FEEDING WORMS. OKAY. AND WE'RE  
23                  INTENDING TO GO BACK IN BUSINESS. THAT IS WHERE  
24                  WE'D LIKE TO GO. OKAY.

25                  I THINK ONE OF THE THINGS THAT



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1           WASN'T BROUGHT OUT BY THE PICTURES WAS THAT I MEAN  
2           THE SCALE OF OUR PROCESSING OPERATIONS OVER THE  
3           LAST YEAR HAVE BEEN GREATLY REDUCED.  AND THE  
4           OTHER THING IS I JUST WANT TO TALK ABOUT THE FIRE  
5           HAS BEEN BROUGHT UP.  I THINK I MADE YOU AWARE OF  
6           THE FIRE IN DECEMBER OF LAST YEAR WHEN I SPOKE  
7           HERE BEFORE YOU AND TOLD YOU EXACTLY WHAT HAPPENED  
8           IS THAT WE'VE NEVER HAD A FIRE AS FAR AS WE KNOW  
9           IN THE 4-INCH MINUS MATERIAL.  WE HAD A FIRE IN  
10          OCTOBER IN THE RESIDUAL MATERIAL THAT WAS NOT  
11          HAULED OFF BECAUSE OF A CONTRACTUAL DISPUTE.

12                   CHAIRMAN PENNINGTON:  ANY OTHER QUESTIONS  
13          OF MR. MEIJER?  OKAY.  THANK YOU.  WE HAVE --

14                   BOARD MEMBER RELIS:  SURE.  I'D LIKE TO  
15          HEAR WHAT YOU -- BRIEFLY, NOT IN DETAIL FASHION,  
16          BUT WHAT ARE YOU MARKETING?  HOW MUCH OF IT?  I'M  
17          NOT ASKING FOR NAMES.

18                   MR. HAHN:  GEORGE HAHN AND MY COMPANY IS  
19          CALIFORNIA VERMICULTURE FROM CARDIFF, CALIFORNIA.  
20          THERE'S BEEN SIGNIFICANT TESTING OF CASTINGS AT  
21          OHIO STATE, CORNELL, AND SEVERAL UNIVERSITIES AND  
22          ACROSS OVERSEAS.  AND IN ALL CASES WORM CASTINGS  
23          HAVE BEEN SHOWN TO BE FROM 5 TO 12 TIMES MORE  
24          EFFECTIVE IN ACTIVATING GROWTH IN PLANTS.

25                   BOARD MEMBER RELIS:  EXCUSE ME.  NOT A

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1 TREATISE, JUST HOW MUCH HAVE YOU MARKETED.

2 MR. HAHN: OKAY. BUT LET ME -- BECAUSE  
3 THIS IS KNOWN INFORMATION, BUT CASTINGS HAVE NEVER  
4 BEEN REALLY AVAILABLE IN A LARGE AMOUNT QUANTITY  
5 THAT PEOPLE COULD BEGIN TO USE THEM. ONE OF  
6 THE -- THERE ARE THREE MAIN MARKETS I SEE RIGHT  
7 NOW, LET ALONE POTENTIAL MARKETS. OKAY. ONE OF  
8 THE -- IN THIS CASE JAPAN IS A LARGE AMOUNT OF  
9 THOSE CASTINGS WILL BE REQUESTED. IT'S ACTUALLY  
10 REQUIRED IN THEIR RECLAMATION PROJECT THAT THEY  
11 USE CASTINGS. THEY HAVE THE PRODUCT. THEY HAVE  
12 APPROVED THE PRODUCT. AND --

13 BOARD MEMBER RELIS: IS THAT FUTURE TENSE  
14 OR PRESENT?

15 MR. HAHN: THAT'S NOW.

16 CHAIRMAN PENNINGTON: YOU'RE SELLING TO  
17 THEM NOW?

18 MR. HAHN: A SALE HAS NOT BEEN DONE, BUT  
19 WHAT IS IN PLACE IS ONE OF THE MAJOR COMPANIES HAS  
20 ACTUALLY SET UP AN ORGANIZATION JUST TO IMPORT  
21 CASTINGS. THE ONLY THING TO HOLD IT IS THESE  
22 PROJECTS THAT ARE THERE HAVE NOT BEEN RELEASED BY  
23 THE GOVERNMENT, BUT THE WHOLE OPERATION IS IN  
24 PLACE.

25 CHAIRMAN PENNINGTON: WE KEEP

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1           INTERRUPTING YOU, BUT I THINK WHAT MR. RELIS WANTS  
2           TO KNOW IS WHAT MARKETING IS GOING ON BY PACIFIC  
3           SOUTHWEST FARMS.   WHAT --

4                     BOARD MEMBER RELIS:   YOU MARKETED A  
5           HUNDRED THOUSAND TONS?   200,000 TONS?   50,000  
6           TONS?   20,000 TONS?

7                     MR. HAHN:   AS --

8                     BOARD MEMBER RELIS:   I MEAN YOU ARE A  
9           BUSINESS.   IT'S SOMETHING YOU SHOULD KNOW.

10                    MR. HAHN:   I ONLY BEGAN THE MARKETING A  
11           FEW MONTHS AGO.   AND EVEN WHEN THE PRODUCT IS  
12           KNOWN, IT TAKES A LITTLE BIT THERE.   BUT IN THE  
13           ORGANICS FARMING AREA, I'M TOLD THERE'S 50,000  
14           ACRES IN ORGANIC FARMING.   ONE FARMER, WHO FARMS  
15           4500 ACRES, HAS ASKED TO DELIVER 250 TONS FOR A  
16           TEST THE THIRD WEEK OF JUNE.   AND THE REASON HE  
17           WANTS THAT, QUESTION HE ASKED IS, I'M SURE I WILL  
18           LIKE THIS MATERIAL IF IT IS AS GOOD AS I HAVE  
19           ALWAYS READ.   CAN I GET ENOUGH FOR MY 4500 ACRES?  
20           NOW, AT 4 TONS PER ACRE, AND HE'S TESTING 2, 4,  
21           AND 6 TONS THE ACRE, THAT'S 18,000 TONS.

22                    BOARD MEMBER RELIS:   MR. CHAIR, I THINK  
23           I'VE GOT ENOUGH INFORMATION.   THANK YOU VERY MUCH.

24                    MR. HAHN:   WHAT I'M SAYING THE PRODUCT  
25           THAT'S THERE WITH THE MARKETS ARE THERE IS NOT

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1 NEAR ENOUGH TO FILL THE DEMAND.

2 CHAIRMAN PENNINGTON: THANK YOU.

3 NOW WE HAVE SOME REBUTTAL FROM SAN  
4 BERNARDINO COUNTY. I WOULD ONLY ASK THAT WE  
HURRY

5 AS BEST WE CAN.

6 MS. BENNETT: I THINK I'LL TRY TO KEEP  
7 THIS SHORT.

8 CHAIRMAN PENNINGTON: THAT'S GOOD. FIVE  
9 MINUTES.

10 (RECESS TAKEN.)

11 CHAIRMAN PENNINGTON: OKAY. CAN WE GO  
12 BACK ON RECORD HERE. MS. BENNETT HAS A QUICK  
13 REBUTTAL. EXCUSE ME. I THINK MR. CHESBRO HAS AN  
14 EX PARTE.

15 BOARD MEMBER CHESBRO: I HAD AN EX PARTE  
16 COMMUNICATION WITH ROBERT HOAG WITH REGARDS TO  
17 THIS ITEM. AND I THINK THE CHAIRMAN OVERHEARD  
IT,

18 SO MAYBE YOU COULD EX PARTE-IZE IT AS WELL.

19 CHAIRMAN PENNINGTON: ALTHOUGH I DIDN'T  
20 SPEAK TO HIM, I HEARD IT. THANK YOU. MS.  
21 BENNETT.

22 MS. BENNETT: WE THINK -- ONCE AGAIN,  
23 WE'RE HERE AS THE LEA WITH A NOTICE AND ORDER. I  
24 PUT IT ON THE BOARD SO THAT PEOPLE COULD SEE THE



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25               SIX ITEMS OF THE ORDER.

1 THE THIRD ITEM WAS TO PROCESS OR --  
2 PROCESS OR REMOVE THE PRODUCT, THE 4-INCH  
3 MATERIAL, FROM THE PREMISES. IF YOU UPHOLD OUR  
4 ORDER, THIS OPERATION WILL BE ALLOWED TO CONTINUE  
5 WITH THE INCH-AND-A-QUARTER, WITH THE TEA GRINDS,  
6 WITH THE WORM BEDS. WHAT WE'RE SAYING IS THIS  
7 PRODUCT HERE IS WASTE AND IS NOT ACCEPTABLE.

8 WE DID GET SOME INFORMATION. ONE  
9 WAS THAT WHEN WE FIRST ENCOUNTERED THE PROBLEM IN  
10 THE FALL, THAT THE CRITERIA WE USED WAS WHETHER  
OR  
11 NOT THERE WAS 15 CUBIC YARDS OF WASTE. AND AS WE  
12 LOOKED OUT AT THE SITE, WE COULD, WITH OUR  
13 PROFESSIONAL JUDGMENT, DETERMINE THAT EVENTUALLY  
14 THERE WAS MORE THAN 15 CUBIC YARDS; AND,  
15 THEREFORE, WE STARTED TO LOOK AT THE OTHER  
FACTORS  
16 ON THE PROPERTY.

17 AND I THINK THERE WAS A QUESTION  
18 ABOUT WHAT IS A COMMODITY VERSUS A WASTE. AND I  
19 THINK THERE WAS THE RANCHO MIRAGE CASE THAT  
20 INDICATED IF YOU ACCEPT MONEY TO TAKE A PRODUCT,  
21 THEN IT'S A WASTE. BUT IF THERE IS VALUE TO THAT  
22 AND YOU ACCEPT IT WITHOUT BEING PAID, THEN IT IS  
A  
23 COMMODITY.

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24 BOARD MEMBER RELIS: LET'S NOT GET INTO  
25 THAT ONE.

1                   BOARD MEMBER JONES:    THAT MIGHT BE A  
2                   REVERSE --

3                   MS. BENNETT:    ANYWAY, IT'S OBVIOUSLY A  
4                   VERY COMPLEX SUBJECT.

5                   WHAT WE DID WANT TO MENTION IS THAT  
6                   THERE WAS A LOT OF OTHER INFORMATION BROUGHT  
7                   FORWARD BY THE APPELLANT THAT TALKED ABOUT HIS  
8                   OTHER BUSINESS ENTERPRISES, HOW FAR IT IS TO  
9                   BAKERSFIELD, WHETHER OR NOT YOU'RE SUPPORTING  
10                  AGRICULTURE, HIS DEALINGS WITH THE WATER BOARDS,  
11                  WITH OTHER PLANNING DEPARTMENTS.   AND WHAT WE'RE  
12                  SAYING IS THAT'S NOT WHAT WE'RE HERE FOR.   WE'RE  
13                  HERE TO DETERMINE IF THE BOARD FINDS THAT, BASED  
14                  ON SUBSTANTIAL EVIDENCE, THAT OUR ACTION WAS  
15                  CONSISTENT WITH THE DIVISION.

16                  WE WOULD LIKE TO END BY SAYING WE  
17                  WOULD APPRECIATE YOU FINDING -- NOT OVERTURNING --  
18                  NO.   WAIT -- WE WOULD LIKE YOU TO FIND IN THE  
19                  LEA'S FAVOR.

20                  BOARD MEMBER JONES:    ASK A QUESTION.

21                  CHAIRMAN PENNINGTON:   MR. JONES, GO  
22                  AHEAD.

23                  BOARD MEMBER JONES:    THE THINGS THAT  
24                  MR.                       MEIJER BROUGHT UP IN REBUTTAL WERE ALL THINGS  
YOU

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25 HAD BROUGHT UP. I MEAN IN FAIRNESS, YOU'RE

1 TALKING ABOUT BAKERSFIELD, KERN COUNTY, WHATEVER  
2 THAT TOWN WAS, STANTON, OR WHEREVER IT WAS, AND  
3 THE WATER BOARD WERE ALL ISSUES YOU BROUGHT UP AS  
4 PART OF YOUR THING.

5 PART OF THE NOTICE AND ORDER, AS I  
6 READ IT, I THINK IT'S SIMPLE WHEN THE BOARD  
7 MEMBERS KEEP ASKING MR. MEIJER OR ANYBODY ELSE,  
8 ARE YOU GOING TO REPROCESS THAT MATERIAL, YOU ARE  
9 SAYING PART OF THE NOTICE AND ORDER WAS THAT HE  
10 WOULD. BUT AS I UNDERSTAND IT, HE COULD ONLY  
11 REPROCESS IT IF YOU ISSUED HIM A SOLID WASTE  
12 FACILITIES PERMIT FOR A TRANSFER STATION.

13 MS. BENNETT: THAT'S NOT TRUE. BACK IN  
14 NOVEMBER WE SAID PROCESS THIS PRODUCT, GET IT OFF  
15 THE SITE. DO IT RIGHT NOW. IN FACT, WE TOLD HIM  
16 DO IT BY DECEMBER 31ST. THEN THE HEARING PANEL  
17 SAID DO IT BY MARCH 31ST. THEN WE'LL TALK ABOUT  
18 WHETHER OR NOT YOU WANT TO APPLY FOR A SOLID WASTE  
19 FACILITY PERMIT. IN BOTH CASES HE WAS TOLD TO  
20 PROCESS IT AND DO IT BY A DATE SPECIFIC.

21 BOARD MEMBER JONES: WHAT HE'S SAYING NOW  
22 IS THAT HE WANTS TO PROCESS IT AND ONLY ACCEPT  
23 INCH-AND-A-QUARTER MINUS.

24 MS. BENNETT: HE ALSO SAID THAT HE WASN'T  
25 GOING TO PROCESS IT, SO I'M NOT SURE WHICH OF

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1           THOSE TWO.

2                   BOARD MEMBER JONES:   I HAVE ONE OTHER  
3           QUESTION.  I HAD BROUGHT THIS UP IN A CONVERSATION  
4           THAT YOU AND I HAD HAD BECAUSE I HAD HEARD THIS  
5           FROM SOMEBODY OTHER THAN MR. MEIJER.  EVERYBODY  
6           HERE IS UNDER OATH.  THIS ISN'T A NORMAL PROCESS.  
7           IS IT A NORMAL ACTIVITY OF AN LEA TO CONTACT A  
8           USER OF A PRODUCT TO IDENTIFY A POTENTIAL PROBLEM?

9                   MS. BENNETT:  I BELIEVE WE WERE WITHIN  
10          OUR -- THE SCOPE OF OUR JOB WAS TO DETERMINE  
11          WHETHER OR NOT ADDITIONAL PRODUCT WAS BEING  
12          BROUGHT ON SITE BECAUSE WE HAD BEEN TOLD --

13                  BOARD MEMBER JONES:  BROUGHT ON SITE OR  
14          BROUGHT OFF SITE BECAUSE CALTRANS WOULD BE A USER  
15          OF THE MATERIAL.

16                  MS. BENNETT:  WE WERE ALSO TRYING TO  
17          DETERMINE IF ANY PRODUCT WAS LEAVING THE SITE.  
18          SOMETIMES IT'S HARD TO DETERMINE WHEN THESE PILES  
19          KEEP MOVING AROUND.  SO WE'RE TRYING TO DETERMINE  
20          IS THERE MORE PRODUCT BEING BROUGHT ON AND IS  
21          ANYTHING LEAVING.

22                  BOARD MEMBER JONES:  I GUESS WHAT MY  
23          QUESTION IS AND WHAT I ASSUMED BY THE STATEMENT  
24          WAS THAT CALTRANS WAS CONTACTED BY MR. TRUJILLO  
25          THAT THE MATERIAL THAT THEY WERE GOING TO USE  
OR



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1           THAT THEY WERE USING, WHICH WAS 70,000 TONS OR  
2           WHATEVER -- I DON'T KNOW WHAT THE NUMBER WAS --  
3           70,000 TONS, THAT THERE WAS A PROBLEM IN THAT  
4           MATERIAL, AND THAT IT HAD NEEDLES AND OTHER THINGS  
5           IN IT. THAT WOULD BE AN END USE MATERIAL. THAT  
6           WOULD BE A PRODUCT THAT CAME OUT OF THE PROCESS TO  
7           A CUSTOMER.

8                   MS. BENNETT:   RIGHT.

9                   BOARD MEMBER JONES:   AND YOUR  
10          NOTIFICATION OF THE CUSTOMER THAT THERE MAY BE A  
11          PROBLEM WITH THAT PRODUCT, IS THAT WITHIN THE  
12          SCOPE OF THE LEA?

13                  MS. BENNETT:   I DON'T BELIEVE WE DID  
14          THAT.   WE COMMUNICATED WITH THEM TO DETERMINE --

15                  MR. TRUJILLO:   CAN I RESPOND TO THAT?

16                  BOARD MEMBER JONES:   SURE.

17                  MR. TRUJILLO:   FIRST OF ALL, I DIDN'T  
18          STAND UP AND DO THE OATH BIT BECAUSE I DIDN'T  
19          THINK I WAS GOING TO TESTIFY, BUT I SO AFFIRM OR  
20          WHATEVER.

21                  BOARD MEMBER JONES:   I BELIEVE YOU, MR.  
22          TRUJILLO, BELIEVE ME.

23                  MR. TRUJILLO:   LET JUST TELL YOU.   I

DID

24          CONTACT CALTRANS BECAUSE I WAS TOLD THAT MR.  
25          MEIJER WAS SELLING MATERIALS TO CALTRANS.   AND I

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1 CONTACTED THE SAN BERNARDINO DISTRICT -- NOT THE  
2 LEA. NOT THE LEA, BUT SAN BERNARDINO DISTRICT.  
3 AND ALL I INQUIRED WAS TO WHAT TYPE OF MATERIAL  
HE  
4 WAS PROVIDING THEM WITH. CALTRANS TOLD ME THAT  
HE  
5 WAS PROVIDING -- MR. MEIJER WAS PROVIDING THEM  
6 WITH, I THINK, INCH-AND-A-QUARTER-TYPE GREEN  
WASTE  
7 MATERIAL, BUT THEY DIDN'T WANT TO ACCEPT IT  
8 BECAUSE IT HAD TOO MUCH GLASS IN IT, AND IT  
9 PROMOTED WEED GROWTH ALONG THE FREEWAY RATHER  
THAN  
10 JUST HAVING THE OPPOSITE EFFECT, AND THAT THEY  
11 WEREN'T GOING TO CONTRACT WITH HIM ANYMORE.

12 HE REFERRED ME TO ANOTHER GENTLEMAN  
13 IN L.A. DISTRICT, BUT I NEVER FOLLOWED UP ON  
THAT.

14 AND THAT WAS THE EXTENT OF MY CONVERSATION.

15 BOARD MEMBER JONES: ONE OF THE REASONS  
I  
16 HAD BROUGHT WAS IT PERSONAL OR NOT WAS, YOU KNOW,  
17 THAT INTERESTS ME IS THAT CONTEXT.

18 CHAIRMAN PENNINGTON: ONE QUESTION I  
HAVE

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19           IS YOU HAVE TOLD THEM TWICE TO EITHER PROCESS IT  
20           OR TO MOVE IT OFF THE PROPERTY, CORRECT?

21                       MS. BENNETT:   CORRECT.

22                       CHAIRMAN PENNINGTON:   WHERE DOES THAT  
23           STAND NOW?   I GUESS I'M GATHERED --

24                       MS. BENNETT:   WE'RE HERE TODAY.   THIS IS  
25           AN APPEAL SO IT STAYED OUR ACTION FROM THE MARCH

1           30TH DEADLINE.

2                   CHAIRMAN PENNINGTON:   SO DO YOU HAVE A  
3           NEW DEADLINE FOR THEM?

4                   MS. BENNETT:   WE'RE GOING TO HAVE TO SEE  
5           THE OUTCOME FROM THIS HEARING FIRST.

6                   CHAIRMAN PENNINGTON:   OKAY.

7                   BOARD MEMBER GOTCH:   MR. CHAIRMAN, ONE  
8           FINAL QUESTION OF MR. MEIJER.   AND YOU ARE GOING  
9           TO NEED TO GO TO THE MICROPHONE, IF YOU WILL,  
10          PLEASE.   WHY WASN'T THE MATERIAL PROCESSED?   WHY  
11          WASN'T THE 4-INCH MATERIAL PROCESSED?   IT SEEMS  
12          LIKE IT WOULD HAVE SAVED YOU A LOT OF TIME AND A  
13          LOT OF MONEY IF YOU HAD DONE THIS DURING THE TIME  
14          PERIOD THAT --

15                   MR. MEIJER:   I'M SORRY.   I JUST NEED TO  
16          FIND THIS DOCUMENT AGAIN.   I'D LIKE US TO GO BACK  
17          AGAIN TO THAT SAME NOTICE AND ORDERS, PAGE 3.

18                   CHAIRMAN PENNINGTON:   THAT'S TAB 11 FOR  
19          US.

20                   MR. MEIJER:   I APOLOGIZE FOR NOT MAKING  
21          THIS MORE CLEAR.

22                   MR. BLOCK:   DID YOU MEAN THE NOTICE AND  
23          ORDER OR HEARING PANEL DECISION?

24                   MR. MEIJER:   THE HEARING PANEL DECISION.  
25          WE HAVE TO BE ABLE TO DO SOME PROCESSING, YOU

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1 UNDERSTAND. I'M SORRY. I MEAN EVERYBODY WHO IS  
2 IN AGRICULTURE DOES SOME PROCESSING. THIS APPEAL  
3 IS VERY NARROW IN MY OPINION; AND THAT IS, ARE WE  
4 PERMITTED TO DO ANY PROCESSING?

5 THAT PART OF THE ORDER SAID THAT WE  
6 CAN ONLY TAKE MATERIAL AND FEED IT DIRECTLY TO THE  
7 WORMS. CONSEQUENTLY MY FEELING IS THAT THERE'S  
8 ALWAYS GOING TO BE PROCESSING. NOW, I HAD TWO  
9 DECISIONS TO MAKE. ONE IS I NEEDED \$75,000 TO GET  
10 TO WHERE I'M STANDING TODAY. WHAT I DID IS I  
11 IMMEDIATELY RENTED OUT MY EQUIPMENT IN ORDER BE TO  
12 BE ABLE TO PURSUE THIS. HAD I JUST SCREENED IT, I  
13 WOULDN'T BE STANDING HERE, BUT I STILL WOULDN'T BE  
14 ABLE TO PROCESS, AND I WOULD NOT BE ABLE TO APPEAL  
15 IT BECAUSE THE APPEAL DATE WOULD HAVE GONE BY.

16 CHAIRMAN PENNINGTON: ARE YOU SAYING THAT  
17 SCREENING IT IS NOT PROCESSING?

18 MR. MEIJER: I'M NOT SAYING THAT IT IS  
19 NOT PROCESSING. I'M SAYING THAT SCREENING IS  
20 PROCESSING. I'M JUST SAYING THAT WE NEED TO BE  
21 ABLE TO ALLOW -- WE NEED YOU TO BE ABLE TO ALLOW  
22 US TO DO SOME PROCESSING JUST AS ANY AGRICULTURAL.  
23 AND I'M SAYING THAT, YES, I HAVE NO PROBLEMS  
24 SCREENING THIS MATERIAL. IN ORDER TO GET HERE, I  
25 NEEDED \$75,000, SO WHAT I DID IS I RENTED MY



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1 EQUIPMENT OUT.

2 CHAIRMAN PENNINGTON: I UNDERSTAND THAT.  
3 BUT YOU SAY -- THEY GAVE YOU TWO OPPORTUNITIES TO  
4 REDUCE THESE PILES AND TO SCREEN IT; IS THAT  
5 CORRECT? AM I RIGHT ON THAT?

6 MR. MEIJER: YES, SIR. IN FACT, WHAT  
7 THEY DID IS IN DECEMBER, WHEN IT WAS POURING DOWN  
8 RAIN, THEY SAID YOU HAVE 30 DAYS TO DO IT. AND WE  
9 WERE BASICALLY PARKED IN SIX INCHES OF MUD. I  
10 MEAN WE DIDN'T EVEN MOVE EQUIPMENT THE WHOLE MONTH  
11 OF DECEMBER. BASICALLY THE SCREENING OPPORTUNITY,  
12 OUR MAIN SCREENING AND PROCESSING ACTUALLY HAPPENS  
13 FROM THE END OF MARCH THROUGH THE FIRST WEEK OF  
14 NOVEMBER WHEN WE GET RAIN.

15 BOARD MEMBER GOTCH: AND THEN THAT WAS  
16 EXTENDED, IF I'M CORRECT, UNTIL THE END OF MARCH?

17 MR. MEIJER: END OF MARCH AND THAT WASN'T  
18 REALLY SUFFICIENT TIME TO BE ABLE TO PROCESS IT  
19 EITHER AT THAT POINT.

20 BOARD MEMBER GOTCH: WAS ANY MATERIAL  
21 PROCESSED DURING THAT TIME?

22 MR. MEIJER: VERY LITTLE, IF ANY. WE  
23 HAVEN'T EVEN REALLY BEEN FEEDING THE WORMS IN  
24 SUFFICIENT QUANTITIES.

25 BOARD MEMBER GOTCH: THANK YOU.

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1                   CHAIRMAN PENNINGTON:   THANK YOU.   OKAY.  
2                   VERY QUICKLY BECAUSE WE NEED TO GET ON TO A  
3                   DECISION MAKING HERE.

4                   MS. NASH:   I JUST WANT TO MAKE CLEAR THAT  
5                   THE HEARING PANEL DID NOT PROHIBIT AND THE LEA'S  
6                   ORDER DID NOT PROHIBIT SCREENING OF ONE-AND-A-  
7                   QUARTER MATERIAL.   IT ONLY PROHIBITED THE  
8                   SCREENING OF THE 4-INCH MATERIAL.   THAT WAS THE  
9                   ONLY SCREENING THAT WAS TAKING PLACE AT THE TIME.  
10                  THE QUESTION WAS NEVER ADDRESSED TO THE LEA OR TO  
11                  THE HEARING PANEL ABOUT SCREENING ONE-AND-A-  
12                  QUARTER-INCH MATERIAL BECAUSE MR. MEIJER INDICATED  
13                  THAT THAT WAS NOT HAPPENING.

14                  PART OF THE CRITERIA FOR DETERMINING  
15                  THAT THE LEA HAS SAID IS WHY THE 4-INCH MATERIAL,  
16                  SCREENING THE 4-INCH MATERIAL WAS OBJECTIONABLE  
17                  BECAUSE OF THE 15-CUBIC-YARD ISSUE.   SO FOR MR.  
18                  MEIJER TO SAY THAT IF YOU RULE AGAINST HIM AND  
19                  UPHOLD THE HEARING PANEL, HE WILL NOW BE  
20                  PROHIBITED FROM SCREENING ONE-AND-A-QUARTER-INCH  
21                  MATERIAL IS NOT TRUE.   THAT IS OUTSIDE THE SCOPE  
22                  OF WHAT THIS HEARING IS ABOUT.   THE HEARING IS  
23                  ABOUT SCREENING THE 4-INCH MATERIAL.

24                  BOARD MEMBER FRAZEE:   MR. CHAIRMAN,  
THAT,  
25                  WITH ALL DUE RESPECT, RUNS CONTRARY TO WHAT I

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READ

1           IN THE ORDER IN TWO PLACES.   THEREFORE, GREEN  
2           MATERIAL WHICH HAS BEEN PRESCREENED ONE AND A  
3           QUARTER INCH MINUS PRIOR TO DELIVERY WHICH CAN BE  
4           APPLIED DIRECTLY TO THE VERMICULTURE BEDS WITHOUT  
5           ANY FURTHER PRIOR ON-SITE PROCESSING WOULD NOT  
6           REQUIRE A SOLID WASTE PERMIT.

7                       MS. NASH:   THAT'S RIGHT BECAUSE THOSE  
8           WERE THE FACTS BEFORE THE HEARING PANEL.

9                       BOARD MEMBER FRAZEE:   THE OPERATIVE WORDS  
10          ARE "WHICH CAN BE APPLIED DIRECTLY."   AND THEN IN  
11          ITEM 2, ANY ON-SITE PROCESSING OF ANY GREEN  
12          MATERIAL PRIOR TO VERMICULTURE BED APPLICATION  
13          AFTER MARCH 30, '97, IS STRICTLY FORBIDDEN AND  
14          CONSIDERED A VIOLATION OF THIS ORDER.   AND I THINK  
15          THAT'S CONTRARY TO WHAT YOU JUST INDICATED, THAT  
16          THE ORDER DOESN'T PROHIBIT THAT.

17                      MS. NASH:   WHAT I'M SAYING IS THAT THOSE  
18          FACTS WERE NOT BEFORE THE HEARING PANEL.   THE  
19          FACTS, ONLY FACTS BEFORE THE HEARING PANEL  
20          PRESENTED BY MR. MEIJER IS THE ONLY THING THAT HE  
21          WAS PRESCREENING WAS 4-INCH MATERIAL, WHICH HAD  
22          ALL THESE PROBLEMS.   THOSE FACTS WERE NEVER  
23          PRESENTED TO THE LEA, WHAT IF I SCREEN THE OTHER  
24          MATERIAL.   IT WAS THE FACT THAT HE WAS PROCESSING  
25          THE 4-INCH MATERIAL THAT WAS PRESENTED TO THE

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1 HEARING PANEL. I UNDERSTAND THE --

2 BOARD MEMBER FRAZEE: YOU ARE THE LAWYER  
3 AND I'M NOT.

4 CHAIRMAN PENNINGTON: OKAY.

5 MS. NASH: THANK YOU.

6 CHAIRMAN PENNINGTON: BEFORE WE START OUR  
7 DELIBERATIONS WHICH HAVE TO BE DONE IN PUBLIC, MR.  
8 ELLIOT IS GOING TO SUMMARIZE WHAT OUR ISSUE IS  
9 HERE, AND I THINK OUR CHIEF COUNSEL IS GOING TO  
10 HAVE SOME INSTRUCTIONS FOR US TOO.

11 MR. BLOCK: WELL, ACTUALLY WE OBVIOUSLY  
12 HAVE HEARD FOR A COUPLE OF HOURS IN DETAIL WHAT  
13 THE ISSUES ARE OR AREN'T HERE, SO I'M NOT REALLY  
14 GOING TO GO BACK OVER THAT. BUT I DID WANT TO  
15 MENTION DISTRIBUTED TO EACH OF YOU, AND I  
16 DISTRIBUTED A COPY TO THE PARTIES PRIOR TO THE  
17 HEARING, ARE A COUPLE OF DRAFT, WHAT I'VE  
CALLED,

18 FINDINGS AND ORDERS. THAT'S GOT A RESOLUTION  
19 NUMBER ALSO MORE FOR IDENTIFICATION PURPOSES  
SINCE

20 NORMALLY WE DEAL WITH RESOLUTIONS OF THE BOARD.

21 ONE, IF THE BOARD WERE TO PICK UP

--

22 HAS SOME FINDINGS AND ORDER IF THE BOARD WERE TO  
23 CHOOSE OPTION 1 THAT'S IN THE STAFF ANALYSIS,



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AND

24 THE OTHER ONE IS LABELED AS BEING OPTION 2.  
25 I DID DO A DRAFT FINDING AND ORDER

1 FOR OPTION 3 PRIMARILY BECAUSE THAT WAS A HYBRID  
2 OF ONE AND TWO. AND NOT KNOWING WHAT THE TESTI-  
3 MONY WAS GOING TO LOOK LIKE TODAY, IT STARTED TO  
4 GET VERY COMPLICATED TO TRY TO ANTICIPATE WHAT  
5 THAT MIGHT BE. THOSE WERE PROVIDED AS  
6 RESOLUTION -- TYPICAL DRAFT RESOLUTIONS ARE TO  
7 ALLOW THE BOARD TO HAVE SOMETHING IN WRITING TO  
8 WORK OFF AS IT TRIED TO DECIDE HOW IT WANTED TO  
9 PROCEED.

10 CHAIRMAN PENNINGTON: OKAY.

11 MS. TOBIAS: WITH ALL DUE RESPECT TO THE  
12 BOARD, I WOULD LIKE TO REMIND YOU THAT THE STATUTE  
13 REQUIRES FOUR AFFIRMATIVE VOTES FOR THE BOARD TO  
14 TAKE ANY ACTION. IF THE BOARD FAILS TO HAVE FOUR  
15 AFFIRMATIVE VOTES, WHAT THAT MEANS TO TAKE ANY  
16 ACTION, TO EITHER UPHOLD THE LEA OR TO OVERTURN  
17 THE LEA'S DECISION, WHAT THAT MEANS IS THAT THE  
18 ACTION OF THE LEA STANDS. THAT DOES NOT MEAN THAT  
19 THE BOARD IS UPHOLDING THE LEA. IT SIMPLY MEANS  
20 THAT THE BOARD HAS TAKEN NO ACTION. AND I'D BE  
21 HAPPY TO TAKE ANY QUESTIONS ON THAT.

22 IF THERE'S NO QUESTIONS, MR.

23 CHANDLER, I THINK, WOULD LIKE TO MAKE A COUPLE OF  
24 COMMENTS.

25 MR. CHANDLER: WELL, I THINK ELLIOT

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1           REALLY SUMMARIZED THE POINTS I WANTED TO MAKE.  
2           YOUR AGENDA ITEM, I THINK, DOES A GOOD JOB,  
3           STARTING ON PAGE 9, WHAT THE BOARD'S OPTIONS ARE.  
4           IF THE BOARD CHOOSES TO UPHOLD THE -- EXCUSE ME --  
5           IF THE BOARD CHOOSES TO OVERTURN THE HEARING  
6           PANEL, YOU HAVE AN ORDER AND IT'S OUTLINED WITH  
7           THOSE BULLETS. THE SECOND OPTION, IF THE BOARD  
8           DECIDES TO UPHOLD THE HEARING PANEL, YOU HAVE AN  
9           ORDER. AND THE THIRD OPTION BEING THE STAFF  
10          RECOMMENDATION. AND AGAIN, THE BOARD WOULD NEED  
11          TO ISSUE AN ORDER.

12                        SO PROCEDURALLY YOU HAVE YOUR  
13          OPTIONS BEFORE YOU AND HOW THOSE ORDERS WOULD  
14          POTENTIALLY LOOK. SO I JUST WANTED TO REMIND THE  
15          BOARD THAT AS YOU GO THROUGH YOUR DELIBERATIONS TO  
16          WHATEVER CONCLUSION YOU COME TO, THERE IS THE NEED  
17          FOR THE FOLLOW-UP ORDER WITH THE STIPULATIONS THAT  
18          EACH ORDER CARRIES WITH IT. AND I THINK THAT'S  
19          WHAT MR. BLOCK REFERRED TO. AND I JUST WANTED TO  
20          DRAW YOUR ATTENTION BACK TO THE AGENDA ITEM WHICH  
21          LAYS THAT OUT FOR YOU, AND HE HAS DRAFTED  
22          APPARENTLY ONE FOR OPTIONS 1 AND 2.

23                       MR. BLOCK: LET ME ALSO MAKE CLEAR THAT I  
24          HAVE DONE THIS, AS I SAID, FOR SOMETHING FOR THE  
25          BOARD MEMBERS TO WORK OFF OF. THERE'S CLEARLY THE

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1 BOARD HAS THE ABILITY TO MODIFY, ADD, OR SUBTRACT  
2 FROM ANYTHING THAT ARE IN THESE DRAFTS IN TERMS --  
3 AS WITH ANY RESOLUTION THAT YOU DO.

4 BOARD MEMBER RELIS: MR. CHAIR.

5 CHAIRMAN PENNINGTON: MR. RELIS.

6 BOARD MEMBER RELIS: IF IT'S IN ORDER, I  
7 WOULD PROPOSE AN ACTION AT THIS POINT. I'M  
8 PREPARED TO UPHOLD THE DECISION OF THE HEARING  
9 PANEL BASED ON WHAT I THINK IS A PREPONDERANCE OF  
10 EVIDENCE IN SUPPORT OF THEIR JUDGMENT.

11 I CAME TO THIS HEARING CONCERNED  
12 THAT PERHAPS THERE WAS A WAY, ANOTHER WAY OUT OF  
13 THIS. I HAVE SOME RESERVATION ABOUT THE TRANSFER  
14 STATION NEXUS; BUT GIVEN THEIR SITUATION OF TRYING  
15 TO ENFORCE A PROBLEM, I CAN SEE HOW THEY CAME TO  
16 THAT POINT. I MIGHT NOT ALTOGETHER AGREE WITH IT,  
17 BUT IT SEEMS LIKE A REASONABLE DECISION. AND SO I  
18 WILL TAKE THAT POSITION.

19 BOARD MEMBER CHESBRO: MR. CHAIRMAN, I  
20 WILL SECOND IT AND I HAVE SOME COMMENTS.

21 CHAIRMAN PENNINGTON: YES, MR. CHESBRO.

22 BOARD MEMBER CHESBRO: THIS IS NOT, YOU  
23 KNOW, OBJECTIVE HEARING-TYPE MATERIAL, BUT LET ME  
24 SAY I LOVE VERMICULTURE. I'VE GOT WORM BOXES IN  
25 MY OFFICES UPSTAIRS, I'VE GOT WORM BOXES IN MY

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1 KITCHEN, IN MY GARAGE, AND IN MY BACKYARD. I AM A  
2 BELIEVER IN VERMICULTURE AND ITS FUTURE IN  
3 CALIFORNIA AND ITS CONTRIBUTION THAT IT CAN MAKE.

4 BUT I BELIEVE THAT WHEN THE BOARD  
5 VOTED TO EXEMPT VERMICULTURE, IT DID NOT HAVE IN  
6 MIND, I CERTAINLY DIDN'T, AND I DON'T BELIEVE,  
7 BASED MY MEMORY OF THE DECISION, THAT THE BOARD  
8 HAD IN MIND THAT PILES OF MATERIAL THAT WERE  
9 HEAVILY MIXED OR CONTAMINATED WITH MATERIALS THAT  
10 WERE NOT APPROPRIATE FOR VERMICULTURE WOULD BE  
11 INCLUDED WITHIN THAT EXEMPTION.

12 I JUST - IT'S VERY, VERY DIFFICULT  
13 FOR ME TO PICTURE. AND THE DISCUSSION -- IT IS  
14 CONTROVERSIAL WHETHER OR NOT TO DO THAT BECAUSE OF  
15 POTENTIAL ABUSES, BUT I THINK THE ARGUMENT ABOUT  
16 IT BEING AN AGRICULTURAL ACTIVITY WAS COMPELLING.  
17 THERE WERE ARGUMENTS ABOUT OTHER TYPES OF GREEN  
18 WASTE PROCESSING, SUCH AS CLEAN GREEN COMPOSTING  
19 BEING EXEMPTED.

20 AND I THINK WE WANT TO TRY TO  
21 ENCOURAGE OR REDUCE THE REGULATORY PROCESS ON  
22 THOSE ACTIVITIES THAT ARE -- THAT HAVE THE LOWEST  
23 ENVIRONMENTAL IMPACTS. AND THAT'S WHY, ALONG WITH  
24 THE LEGISLATIVE AND HISTORICAL TRADITION OF  
25 AGRICULTURAL EXEMPTION, THE BOARD CHOSE TO DO SO.



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1 BUT WE WEREN'T TALKING ABOUT VERMICOMPOSTING --  
2 VERMICULTURE IN CONJUNCTION WITH THESE LARGE PILES  
3 OF MATERIAL THAT ARE NOT READY TO BE FED INTO THE  
4 PILE AND NEED CONSIDERABLE AMOUNTS OF CLEANING UP  
5 AND/OR PROCESSING.

6 I BELIEVE THE LEA HAS DONE HIS JOB  
7 PROFESSIONALLY, COMPETENTLY. AND ANY TIME YOU GET  
8 THIS KIND OF CASE BROUGHT FORWARD THAT LASTS FOR A  
9 LONG PERIOD OF TIME, YOU ARE GOING TO HAVE A  
10 CERTAIN AMOUNT OF SUPERFLUOUS STUFF COME UP. I'VE  
11 HEARD IT FROM BOTH SIDES, BUT I DON'T THINK THAT  
12 THE TRACK RECORD INDICATES THAT THE LEA HAS BEEN  
13 LESS THAN FAIR.

14 IT'S CLEAR THAT THEY SUPPORT WITHIN  
15 THE CONTEXT OF THE BOARD'S POLICY ALLOWING THE  
16 VERMICULTURE THAT IS GOING ON IN THIS SITE TO GO  
17 FORWARD WITHOUT ANY RESTRICTION AS LONG AS IT IS,  
18 IN FACT, VERMICULTURE AND NOT MIXED WASTE PILES,  
19 AND THAT THEY'VE ALSO APPROVED NUMEROUS OTHER  
20 TYPES OF COMPLICATED COMPOST AND PERHAPS  
21 CONTROVERSIAL COMPOSTING OPERATIONS IN THE COUNTY.

22 SO I THINK THAT THEY'VE DONE THEIR  
23 JOB, AND WE SHOULD BE BACKING UP THE LEA'S WHEN  
24 THEY DO THEIR JOB, AND THAT'S WHY I SUPPORT THE  
25 MOTION.

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1                   CHAIRMAN PENNINGTON:    OKAY.    ANY FURTHER  
2                   DISCUSSION?   MR. FRAZEE.

3                   BOARD MEMBER FRAZEE:   MR. CHAIRMAN, I AM  
4                   TORN BY THIS MOTION BECAUSE I BELIEVE THAT THE  
5                   AMOUNT OF RESIDUAL MATERIAL THAT IS CLEARLY ON  
6                   SITE, BOTH FROM OBSERVATION PERSONALLY AND WITH  
7                   THE PICTURES THAT ARE HERE, CONSTITUTE HANDLING OF  
8                   SOLID WASTE.   BUT I WANT TO GO BACK TO THE POINT  
9                   THAT I MADE EARLIER, THAT I THINK THE NOTICE AND  
10                  ORDER GOES BEYOND THAT IN THAT IN MY READING IN  
11                  TWO PLACES IT SPECIFICALLY PROHIBITS ANY ON-SITE  
12                  PROCESSING OF ANY GREEN MATERIAL PRIOR TO  
13                  VERMICULTURE BED APPLICATION AFTER MARCH 30, 1997.  
14                  IT'S STRICTLY FORBIDDEN AND CONSIDERED A VIOLATION  
15                  OF THIS ORDER.

16                  AND THAT PART OF THE TOTAL UPHOLDING  
17                  OF THE LEA'S ORDER DISTURBS ME BECAUSE THAT WOULD,  
18                  IN EFFECT, PUT THIS OPERATION OUT OF BUSINESS.  
19                  AND SO I CANNOT GO ALONG WITH THE MOTION AS  
20                  PRESENTED.

21                  BOARD MEMBER JONES:    I AGREE WITH MR.  
22                  FRAZEE.   I THINK WE NEED TO COME UP WITH SOME KIND  
23                  OF A COMPROMISE.   I THINK THAT, YOU KNOW, THE  
24                  SUPPORT OF THE LEA, I THINK WE SUPPORT THE LEA,  
25                  BUT I THINK THAT ISSUE OF THE PROCESSING,

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1 REPROCESSING OF AN ALREADY PROCESSED MATERIAL AND  
2 THE FACT THAT THE NOTICE AND ORDER BASICALLY PUTS  
3 THIS OPERATION OUT OF BUSINESS, AND WITH THE OTHER  
4 EVIDENCE THAT I'VE SEEN, I THINK I WOULD OFFER A  
5 SUBSTITUTE MOTION.

6 AND MY SUBSTITUTE MOTION IS OPTION 3  
7 IN OUR PACKET. AND I WOULD WANT A -- THE LEA, THE  
8 OPERATOR, AND A THIRD PARTY TO DETERMINE THE  
9 AMOUNT OF RESIDUAL WASTE IN THE 4-INCH MINUS. AND  
10 IF THE -- IF IT'S GREATER THAN 10 PERCENT, THEN  
11 THE HEARING PANEL DECISION WOULD BE UPHELD. AND  
12 IF IT'S LESS THAN 10 PERCENT, THEN IT SHOULD BE  
13 MODIFIED TO COINCIDE WITH WHAT WAS OPTION 1.  
14 THAT'S A SUBSTITUTE MOTION. AND I THINK THAT  
15 ALLOWS US THE LATITUDE TO BE ABLE TO PROMOTE THESE  
16 TYPES OF OPERATIONS AND UPHOLD THE INTEGRITY OF  
17 THE LEA AT THE SAME TIME AND TRY TO GET SOME --

18 CHAIRMAN PENNINGTON: WOULD YOU PUT A  
19 TIME FRAME ON HOW LONG THEY'VE GOT TO MAKE THIS  
20 REVIEW? AND IT WOULD SEEM TO ME THAT IF THE

BOARD

21 CHOSE TO GO THAT DIRECTION, THAT IT SHOULD BE  
22 DONE  
23 EXPEDITIOUSLY.

24 BOARD MEMBER JONES: I THINK SO.

CHAIRMAN PENNINGTON: SO THAT THEY

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KNOW

25

ARE.

WHERE THEY ARE AND THE LEA KNOWS WHERE THEY

1                   BOARD MEMBER JONES: I THINK WITHIN 45  
2                   DAYS, IF THAT'S REASONABLE. I DON'T KNOW IF  
3                   THAT'S A REASONABLE TIME PERIOD.

4                   CHAIRMAN PENNINGTON: WOULD YOU -- YOU  
5                   WOULD EXPECT THEM TO COME BACK TO THE BOARD OR  
6                   WOULD YOU --

7                   BOARD MEMBER JONES: I WOULD EXPECT THAT  
8                   THEY WOULD COME BACK TO THE BOARD WITH A REPORT SO  
9                   THAT WE COULD DETERMINE AT THAT POINT WHICH  
10                  OPTION. BASED ON THIS RECOMMENDATION, IT IS --  
11                  WELL, IF IT'S GREATER THAN 10 PERCENT, THEN THE  
12                  HEARING PANEL DECISION WOULD BE UPHELD. AND IF  
13                  IT'S LESS, THEN THE ORDER NEEDS TO BE MODIFIED.

14                  MS. TOBIAS: I THINK THAT WHAT YOU'D  
15                  WANT, BUT I'M OPEN TO DISCUSSION ON THIS, IS  
16                  THAT

17                  YOU WOULD WANT THE BOARD TO HEAR THAT. YOU  
18                  COULD

19                  RESTRICT THE ISSUE, YOU KNOW, TO THAT, BUT I  
20                  THINK

21                  IT WOULD BE BEST IF IT CAME BACK BEFORE THE  
22                  BOARD.

23                  MR. CHANDLER, I'M OPEN TO HEARING IF YOU DON'T  
24                  THINK THAT'S THE CASE.

25                  MR. CHANDLER: WE'RE CHARTING NEW



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22            TERRITORY HERE.    I MEAN IF THIS DETERMINATION  
WAS  
23            MADE THROUGH ANALYTICAL PROCEDURES, I THINK THAT  
24            THE BOARD HAS THE OPTION TO HAVE THAT SIMPLY  
25            SUBMITTED AS WRITTEN MATERIAL AND LET IT STAND  
ON

1 ITS OWN WITH THE UP OR DOWN, ABOVE OR BELOW. OR  
2 YOU CAN CHOOSE TO HAVE THE INFORMATION BROUGHT  
3 FORWARD IN A PUBLIC SETTING AND HAVE PEOPLE GO  
4 THROUGH THE METHODOLOGY AND THE RESULTS.

5 SO I DON'T WANT TO SPECULATE AS TO  
6 WHICH IS THE BEST PROCESS TO FOLLOW HERE.  
7 CERTAINLY YOU HAVE THE DISCRETION TO LAY OUT HOW  
8 YOU WANT THIS INFORMATION BROUGHT BACK.

9 MS. TOBIAS: AND IF THAT WAS THE CASE,  
10 MR. JONES, IF YOUR MOTION WAS INDICATING THAT IT  
11 SHOULD COME BACK BEFORE THE BOARD, I MIGHT SUGGEST  
12 THAT IT BE 45 DAYS OR A DATE THAT'S CLOSE TO THAT  
13 IN ORDER TO ALLOW STAFF TO GET A STAFF REPORT  
14 WRITTEN ON IT. SO I DON'T KNOW, PATTI, WHAT THE  
15 DATE IS FOR SUBMISSION OF STAFF REPORTS FOR THE  
16 NEXT BOARD.

17 MS. BERTRAM: TO GET IT AGENDIZED, IT  
18 WOULD HAVE TO BE --

19 MS. TOBIAS: WELL, NOT AGENDIZED. WE  
20 WOULD NEED A WEEK TO WORK ON A STAFF REPORT, SO  
21 WHEN ARE THE STAFF REPORTS DUE TO LEGAL? YOU  
22 DON'T HAVE THAT. SO SOMEWHERE AROUND -- WE  
WOULD

23 NEED THE MATERIAL A WEEK BEFORE JUNE 30TH.

24 BOARD MEMBER JONES: A WEEK BEFORE

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JUNE

25                    30TH.    THAT'S THREE WEEKS FROM NOW.

1 MS. TOBIAS: THAT'S ONLY THREE WEEKS.  
2 THE OTHER THING -- THAT'S ACTUALLY TO GO TO THE  
3 COMMITTEE; SO IF IT WAS COMING DIRECTLY TO THE  
4 BOARD, WE WOULDN'T NEED IT QUITE THAT QUICKLY. SO  
5 I WOULD SAY SOMEWHERE AROUND JULY 15TH OR SO, AND  
6 WE'LL JUST GET A STAFF REPORT DONE AS FAST AS  
7 POSSIBLE, SO IT PROBABLY IS ABOUT 45 DAYS.

8 MR. CHANDLER: TO BE BROUGHT TO THE FULL  
9 BOARD AT ITS JULY BOARD MEETING?

10 MS. TOBIAS: I'M TRYING TO FEED INTO MR.  
11 JONES. I DON'T KNOW WHAT HIS MOTION IS.

12 MR. CHANDLER: THAT WOULD JUST BE THE  
13 RESULTS OF THE RESIDUAL TEST.

14 BOARD MEMBER JONES: RIGHT.

15 MR. CHANDLER: I THINK YOU'VE GOT ENOUGH  
16 TO AT LEAST ENTERTAIN THE MOTION. YOU DON'T EVEN  
17 HAVE A SECOND AT THIS POINT, SO WHAT YOU HAVE TO  
18 GET IS SOME DISCUSSION.

19 BOARD MEMBER FRAZEE: I'LL SECOND IT.

20 CHAIRMAN PENNINGTON: MR. FRAZEE SECONDS.  
21 MR. CHESBRO.

22 BOARD MEMBER CHESBRO: COUPLE COMMENTS.  
23 ONE, THIS MOTION DOESN'T ADDRESS THE PROBLEM THAT  
24 MR. FRAZEE BROUGHT UP. IT'S LOOKING AT A  
25 DIFFERENT ASPECT OF THE PROBLEM.

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1                   SECONDLY, MY PROBLEM WITH IT IS THAT  
2           I THINK WE'VE BEEN PRESENTED WITH LOTS OF  
3           EVIDENCE, PLENTY OF EVIDENCE, AND THIS HAS BEEN  
4           SITTING AROUND HERE NOW FOR MULTIPLE, MULTIPLE  
5           MONTHS. THE EX PARTE I DECLARED EARLIER WAS FROM  
6           SOMEBODY WHO RESIDES ON THE PROPERTY, HAS CHILDREN  
7           THERE, IS CONCERNED ABOUT THE HEALTH AND SAFETY  
8           EFFECTS OF THIS PROCESS THAT EXISTS TODAY, RIGHT  
9           NOW WHILE WE'RE SITTING HERE TALKING. AND I JUST  
10          THINK IT WOULD BE IRRESPONSIBLE FOR US TO ALLOW  
11          THIS PILE TO CONTINUE TO SIT THERE FOR A COUPLE  
12          MORE MONTHS WHILE WE TRY TO DECIDE IF THERE'S A  
13          PROBLEM WHEN I FEEL WE'VE BEEN CLEARLY PRESENTED  
14          WITH A COMPELLING CASE THAT THERE IS A PROBLEM.

15                   BOARD MEMBER JONES: MR. CHAIRMAN.

16                   CHAIRMAN PENNINGTON: YES, MR. JONES.

17                   BOARD MEMBER JONES: THE ISSUE IN FRONT  
18          OF US ISN'T WHETHER OR NOT THIS IS A HEALTH AND  
19          SAFETY ISSUE. THIS IS WHETHER OR NOT THIS  
20          FACILITY NEEDS A TRANSFER -- I MEAN A PERMIT  
21          BECAUSE OF A PROCESSING ISSUE. I MEAN, YOU KNOW,  
22          I MEAN AS I INTERPRET THIS ISSUE, IT IS TO UPHOLD  
23          THE NOTICE AND ORDER THAT SAID THAT BECAUSE THIS  
24          MATERIAL IS ON SITE, IF HE WANTS TO PROCESS IT, HE  
25          NEEDS TO HAVE A TRANSFER STATION. IT'S NOT A

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1 HEALTH AND SAFETY ISSUE.

2 THIS IS A FUNDAMENTAL ISSUE AS TO IS  
3 A PROCESSOR -- IS ANYBODY A VERMICULTURER, A  
4 COMPOSTER, A METALS RECYCLER, ANYBODY THAT TAKES A  
5 SOURCE -- A MATERIAL THAT'S BEEN DIVERTED FROM  
6 EITHER A SOURCE SEPARATED MATERIAL OR FROM A  
7 MATERIALS RECOVERY FACILITY THAT HAS BEEN SORTED,  
8 DO THEY HAVE THE RIGHT TO REPROCESS THAT MATERIAL  
9 PRIOR TO USING IT?

10 I MEAN CUT AND DRY, THE CITY -- I  
11 MEAN THE COUNTY IS SAYING THIS IS MUNICIPAL SOLID  
12 WASTE WITH GREEN WASTE IN IT. THAT'S THE ISSUE.  
13 YOU KNOW, THE ISSUE IS DO WE TELL ALL PROCESSORS  
14 OF THESE FACILITIES THAT THEY CANNOT REPROCESS  
15 MATERIAL WITHOUT A PERMIT? I DON'T THINK THEY  
16 NEED TO.

17 CHAIRMAN PENNINGTON: OKAY. WE HAVE A  
18 SUBSTITUTE MOTION ON THE FLOOR TO REQUIRE THE LEA,  
19 THE OPERATOR, AND AN INDEPENDENT PARTY TO  
20 DETERMINE THE AMOUNT OF RESIDUAL AND REPORT BACK  
21 TO THE BOARD WITHIN 45 DAYS OR THE JULY BOARD  
22 MEETING. IT'S BEEN DISCUSSED. IF

THERE'S NO

23 FURTHER DISCUSSION, WILL THE  
SECRETARY CALL THE

24 ROLL.



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25

BOARD SECRETARY: BOARD

MEMBER CHESBRO.

1 BOARD MEMBER CHESBRO: NO.

2 BOARD SECRETARY: FRAZEE.

3 BOARD MEMBER FRAZEE: AYE.

4 BOARD SECRETARY: GOTCH.

5 BOARD MEMBER GOTCH: NO.

6 BOARD SECRETARY: JONES.

7 BOARD MEMBER JONES: AYE.

8 BOARD SECRETARY: RELIS.

9 BOARD MEMBER RELIS: NO.

10 BOARD SECRETARY: CHAIRMAN PENNINGTON.

11 CHAIRMAN PENNINGTON: AYE. MOTION FAILS.

12 WE'LL GO TO THE ORIGINAL MOTION BY

13 MR. RELIS AND MR. CHESBRO TO UPHOLD THE LEA.

14 BOARD MEMBER CHESBRO: MAY I ASK IF MR.

15 FRAZEE -- I MEAN THERE'S BEEN DIFFERENT

16 INTERPRETATIONS OF THAT LANGUAGE HERE. IS THERE

17 ANY WAY, AND LET ME ASK THE AUTHOR OF THE MOTION,

18 THAT WE COULD IN THE LANGUAGE OF THE FINDINGS AND

19 ORDER SOMEHOW REFLECT THE FACT THAT IT'S NOT THE

20 BOARD'S INTENT TO PROHIBIT ALL PROCESSING, THAT

21 THIS IS SPECIFIC TO THE QUESTION OF THE PROCESSING

22 THAT'S BEEN DEFINED AS INAPPROPRIATE BY THE LEA?

23 IS THERE A WAY TO DO THAT?

24 BOARD MEMBER RELIS: IF THERE'S DOUBT

25 ABOUT THAT, I WOULD CERTAINLY ACCEPT THAT. I'M

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1           STILL -- WE'VE HAD TWO INTERPRETATIONS HERE. I'M  
2           NOT TRYING TO PREVENT THEM FROM PROCESSING. THAT  
3           IS NOT THE INTENT OF MY MOTION. YOU'VE CLARIFIED,  
4           AS I UNDERSTAND IT, THE LEA HAS TESTIFIED THAT  
5           THIS WILL NOT PREVENT PROCESSING. CAN I -- CAN WE  
6           ACCEPT THAT AT FACE VALUE?

7                   MS. TOBIAS: MR. RELIS, WHAT YOU MIGHT  
8           WANT TO DO, JUST A SUGGESTION, YOU MAY JUST WANT  
9           TO MAKE IT CLEAR WHAT THE BOARD WANTS TO SEE  
10          RATHER THAN TRYING TO ASCERTAIN THE INTENT OF THE  
11          PARTIES. I THINK IT MIGHT BE MORE CLEAR IF THE  
12          BOARD MEMBERS COULD WORK OUT A MOTION THAT WOULD  
13          SAY WHAT IT IS THAT YOU WISH TO SEE.

14                   BOARD MEMBER RELIS: WELL, MY INTENT IS  
15          TO EXPEDITIOUSLY CLEAN UP THE PILE. NOW, THE  
16          DECISION BY THE LEA HAS BEEN TO CALL THAT -- THEIR  
17          APPROACH TO THAT HAS BEEN TO DEFINE IT AS A  
18          TRANSFER OPERATION. I INDICATED IN MY MOTION THAT  
19          I HAVE SOME TREPIDATION ABOUT THAT, BUT I CAN  
20          UNDERSTAND IN THEIR QUEST TO FIND A WAY TO DEAL  
21          WITH THIS, HOW THEY ARRIVED AT THAT. SO I DON'T  
22          KNOW WHAT MORE -- CAN SOMEONE HELP ME?

23                   BOARD MEMBER CHESBRO: SIMPLEST THING  
24          FROM MY POINT OF VIEW, GETTING BACK TO WHAT I  
25          SAID, WITH ALL DUE RESPECT TO OUR ESTEEMED

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1 COUNSEL, IS THAT RATHER THAN TRYING TO CONSTRUCT  
2 SOMETHING NEW IS TO TAKE WHAT ELLIOT HAS AND TRY  
3 TO FIGURE OUT WHATEVER MINOR MODIFICATION TO  
4 CLARIFY THAT FACT AS OPPOSED TO -- BECAUSE  
5 OTHERWISE WE'RE GOING SPEND A WHOLE LOT MORE TIME  
6 HERE TRYING TO CONSTRUCT SOME HYBRID WHEN I THINK  
7 THE ORIGINAL INTENT OF THE MOTION WAS TO UPHOLD  
8 THE LEA. WE JUST NEED SOME CLARIFICATION ABOUT  
9 WHAT THAT MEANS.

10 MS. TOBIAS: I THINK MR. BLOCK HAS A  
11 SUGGESTION.

12 BOARD MEMBER FRAZEE: I WAS GOING TO  
13 OFFER ONE JUST TO STRIKE IN THE ORDER ON LINE 16,  
14 STARTING WITH THE WORD "WHICH CAN BE APPLIED  
15 DIRECTLY TO VERMICULTURE BEDS WITHOUT ANY FURTHER  
16 PRIOR ON-SITE PROCESSING," AND THEN ON LINE 23,  
17 "ANY ON-SITE PROCESSING OF ANY GREEN MATERIAL  
18 PRIOR TO VERMICULTURE BED APPLICATION AFTER MARCH  
19 30, '97."

20 CHAIRMAN PENNINGTON: MR. FRAZEE, EXCUSE  
21 ME, YOU'RE ON WHAT PAGE?

22 BOARD MEMBER FRAZEE: THIS IS TAB 11.  
23 THIS IS THE NOTICE AND ORDER. AND ON PAGE 2,

LINE

24 16.

25 MR. BLOCK: LET ME CLARIFY, THEN, IF

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WHAT

1           YOU'RE TALKING ABOUT IS STRIKING A PORTION OF THE  
2           HEARING PANEL DECISION, THAT WOULD BE A MOTION TO  
3           OVERTURN AT LEAST THAT PORTION OF THE HEARING  
4           PANEL DECISION, WHICH IS NOT THE MOTION. YOU  
5           PROBABLY WANT TO RECONSTITUTE THAT.

6                       THE OPTION THAT I WAS GOING TO  
7           SUGGEST, WHICH IS A LITTLE -- DOESN'T GO THAT FAR  
8           IN TERMS OF OVERTURNING THE DECISION, IS TO USE  
9           THE DRAFT FINDINGS AND ORDERS OPTION 2, WHICH IS  
10          WHAT'S THE MOTION, AND THEN TAKE PARAGRAPH NO. 5  
11          FROM OPTION -- FROM THE DRAFT FINDINGS AND ORDER,  
12          OPTION 1, WHICH RIGHT NOW REFERS TO 4-INCH  
13          MATERIAL. I'M SORRY. PAGE 3.

14                   MS. TOBIAS: ELLIOT, PLEASE START OVER.

15                   MR. BLOCK: LET ME START AGAIN. THE  
16          MOTION IS TO USE OPTION 2. AND I'M SUGGESTING  
17          THAT IN ADDITION TO OPTION 2 THAT WHAT WE -- ONE  
18          OPTION WOULD BE TO ADD A PARAGRAPH TO THE DRAFT  
19          FINDINGS AND ORDER OPTION 2, AND THAT PARAGRAPH  
20          COULD LOOK SOMETHING LIKE PARAGRAPH NO. 5, WHICH  
21          IS ON PAGE 3 OF THE DRAFT ORDER OPTION 1.

22                   IT SAYS, "THE CIWMB RECENTLY ADOPTED  
23          REGULATIONS THAT SUBJECT THE STORAGE OF ORGANIC  
24          MATERIAL TO CERTAIN SPECIFIED MINIMUM STANDARDS."  
25          AND THEN THERE'S A COUPLE MORE SENTENCES. RIGHT



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1           NOW THAT PARAGRAPH REFERENCES THE 4-INCH MATERIAL.  
2           WHAT THE BOARD COULD DO IS USE THAT PARAGRAPH,  
3           REFERENCE THE ONE-AND-A-QUARTER-INCH MATERIAL. IT  
4           WOULDN'T BE PART OF THE ORDER; IT WOULD JUST BE A  
5           FINDING, SO THE BOARD IS INDICATING ITS  
6           INTERPRETATION OF THE REGULATIONS AS THEY APPLY  
7           NOW.

8                               AND THIS IS BASED ON THE IDEA, AS  
9           HAS BEEN RAISED IN THE TESTIMONY, THAT THE REVISED  
10          EMERGENCY REGULATIONS, WHICH NOW COVER AT THE VERY  
11          LEAST ONE-AND-A-QUARTER-INCH MATERIAL, AS THE  
12          PROPER VEHICLE FOR REGULATING THAT MATERIAL. AND  
13          THAT -- THOSE REGULATIONS WOULD NOT RESTRICT  
14          PROCESSING BY PACIFIC SOUTHWEST FARMS OF THE ONE-  
15          AND-A-QUARTER-INCH MATERIAL.

16                       MS. TOBIAS: SO YOUR CHANGE IS THAT IN  
17          THE ORDER NO. 1, PARAGRAPH 5, THE PARAGRAPH THAT  
18          YOU WOULD SUBSTITUTE INTO THE ORDER NO. 2 ON LINE  
19          13 WOULD SAY "STORAGE OF THE ONE-AND-A-QUARTER-  
20          INCH MATERIAL." AND REST OF THE PARAGRAPH WOULD  
21          BE SUBSTITUTED INTO THE SECOND ORDER.

22                       MR. BLOCK: THAT WOULD THEN UPHOLD THE  
23          ORDER, BUT GET INTO THE ORDER ITSELF THE BOARD'S  
24          POSITION ON THE ONE-AND-A-QUARTER-INCH MATERIAL  
25          AND, OF COURSE, OBVIOUSLY THEN REFERENCE THE NEW

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1           REGULATIONS WHICH WERE NOT IN PLACE AT THE TIME OF  
2           THE NOTICE AND ORDER FOR THE HEARING PANEL  
3           DECISION.  AND MY SENSE IS THAT ONE OF THE REASONS  
4           THIS ISSUE WAS NOT RAISED BEFORE THE HEARING PANEL  
5           WAS BECAUSE IT WAS NOT PUT INTO PLAY BECAUSE THESE  
6           REGULATIONS WERE NOT IN EFFECT.

7                       THAT'S ANOTHER OPTION THAT WOULD BE  
8           SHORT OF OVERTURNING.

9                       BOARD MEMBER RELIS:  SO YOU'D REFERENCE  
10          THE NEW REGS.

11                      MR. BLOCK:  THAT'S CORRECT.  BASICALLY IT  
12          WOULDN'T HAVE THE FORCE OF REQUIRING THE LEA TO DO  
13          ANYTHING, BUT CLEARLY THE BOARD WOULD BE  
14          INDICATING WHAT ITS INTERPRETATIONS OF ITS  
15          STATUTES AND REGULATIONS ARE AS REGARDING THE  
16          ONE-AND-A-QUARTER-INCH MATERIAL.

17                      TO MR. FRAZEE'S SUGGESTION, WHICH IS  
18          ALSO A POSSIBILITY FOR THE BOARD, WOULD REQUIRE  
19          THE BOARD TO DECIDE THAT THE PORTIONS OF THE  
20          HEARING PANEL DECISION THAT HE REFERENCED, THAT AT  
21          LEAST IMPLY, IF NOT STRONGLY IMPLY, THAT NO  
22          PROCESSING CAN TAKE PLACE OF THE ONE-AND-A-  
23          QUARTER-INCH MATERIAL, THE BOARD WOULD HAVE TO  
24          AFFIRMATIVELY BE DECIDING THAT THAT'S INCONSISTENT  
25          WITH OUR STATUTES AND REGULATIONS.

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1                   SO THERE'S TWO DIFFERENT WAYS TO GO.  
2           AND SINCE THIS ORDER IS NOT ABOUT THE ONE-AND-A-  
3           QUARTER-INCH MATERIAL, IT'S JUST A QUESTION OF  
4           WHETHER YOU FEEL YOU -- THE LEA HAS INDICATED THEY  
5           DON'T BELIEVE THIS ORDER IS ABOUT THE ONE-AND-A-  
6           QUARTER-INCH MATERIAL. IT'S JUST A QUESTION OF  
7           WHETHER THE VEHICLE YOU WANT TO USE FOR SENDING  
8           THAT MESSAGE, IF YOU WILL.

9                   CHAIRMAN PENNINGTON: LET ME SUGGEST  
10          THIS. THAT IF THAT --

11                  BOARD MEMBER RELIS: THAT'S ACCEPTABLE  
12          TO  
13          THE MAKER OF THE MOTION.

14                  CHAIRMAN PENNINGTON: OKAY. THEN I  
15          THINK  
16          WHAT YOU NEED TO DO IS WITHDRAW YOUR MOTION, AND  
17          THEN MAYBE WE CAN ASK ELLIOT TO SORT OF GO  
18          THROUGH  
19          OPTION 2 AND SHOW US JUST EXACTLY -- I MEAN  
20          OPTION  
21          2 --

22                  BOARD MEMBER RELIS: BEFORE I WITHDRAW  
23          IT, LET'S JUST GO THROUGH THAT.

24                  MS. TOBIAS: I GUESS I HAD ONE QUESTION  
25          FOR ELLIOT -- MR. BLOCK. AND THAT IS, DOES THAT  
26          ANSWER MR. FRAZEE'S CONCERNS ABOUT PAGE 2 AND THE

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23                   ORDER OF THE LEA DEALING WITH THE NO PROCESSING?  
24                   MR. BLOCK: WELL, I MEAN THAT'S A GOOD  
25                   QUESTION. I MEAN I THINK THAT IF YOU WERE TO  
JUST

1 LOOK AT IT ON THE BASIS OF LOOKING AT THE ORDER,  
2 IT PROBABLY DOES NOT. BASED ON MR. FRAZEE'S  
3 READING OF THE ORDER, IT SAYS NO FURTHER  
4 PROCESSING OF THE ONE-AND-A-QUARTER-INCH  
MATERIAL.

5 ON THE OTHER HAND, WE DO HAVE THE COUNTY ON THE  
6 RECORD UNDER OATH TODAY SAYING THAT'S NOT WHAT  
7 THAT LANGUAGE MEANS. SO --

8 BOARD MEMBER RELIS: I WOULD ACCEPT THEM  
9 ON FACE VALUE IF THEY WOULD -- I KNOW IT'S  
10 UNUSUAL, BUT IS THAT -- DO WE HAVE AN AGREEMENT  
11 ON  
12 THAT INTERPRETATION?

13 MS. NASH: THE ORDER ONLY ADDRESSES  
14 PROCESSING OF 4-INCH MATERIAL. THE ONE-AND-A-  
15 QUARTER -- THE LANGUAGE ABOUT THE  
16 ONE-AND-A-QUARTER-INCH MATERIAL WAS IN THERE  
17 BECAUSE MR. MEIJER INDICATED HE WAS NOT  
18 PROCESSING

19 THE ONE-AND-A-QUARTER-INCH MATERIAL. THEY DID  
20 NOT -- IT WAS NOT BEFORE THE LEA OR THE HEARING  
21 PANEL. THEY DID NOT MAKE A FINDING ABOUT  
22 PREPROCESSING ONE-AND-A-QUARTER-INCH MATERIAL.

23 IT'S DICTA AS FAR AS THE HOLDING IS  
CONCERNED. IT WAS IN THERE TO CLARIFY WE'RE  
TALKING ABOUT 4-INCH; WE'RE NOT TALKING ABOUT



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ONE-

24                   AND-A-QUARTER-INCH.   FOUR-INCH HAS BEEN

PROCESSED.

25                   HE CAN'T DO THAT ANYMORE.   ONE-AND-A-QUARTER-INCH

1 IS NOT BEING PROCESSED, AND THAT'S THE LIMIT OF  
2 THE ORDER.

3 BOARD MEMBER FRAZEE: ONE-AND-A-QUARTER-  
4 INCH IS BEING PROCESSED AND THAT'S THE CRUX --

5 MS. NASH: THAT IS THE INFORMATION THAT  
6 WE HAVE RECEIVED TODAY. AT THE TIME OF THE  
7 HEARING PANEL, THE HEARING PANEL WAS TOLD BY MR.  
8 MEIJER THAT THE ONE-AND-A-QUARTER-INCH WAS NOT  
9 BEING PROCESSED, AND SO THEY -- YOU KNOW, ANY  
10 FINDING THAT THEY MADE ON IT WAS REALLY NOT BEFORE  
11 THEM BECAUSE THEY WERE TOLD "I'M NOT PROCESSING  
12 THE ONE-AND-A-QUARTER-INCH MATERIAL." I DON'T  
13 KNOW IF THAT CLARIFIES OR CONFUSES IT.

14 CHAIRMAN PENNINGTON: ONE PERSON AT A  
15 TIME HERE.

16 BOARD MEMBER JONES: DO YOU GUYS HAVE A  
17 PROBLEM WITH HIM PROCESSING INCH-AND-A-QUARTER  
18 MATERIAL?

19 MS. NASH: NO.

20 BOARD MEMBER JONES: YOU WILL STIPULATE  
21 TO THAT? I MEAN IF WE PUT THAT IN OUR ORDER, DO  
22 YOU HAVE A PROBLEM WITH THAT?

23 MS. NASH: AS WE UNDERSTAND IT NOW --

24 BOARD MEMBER JONES: YES OR NO.

25 MS. NASH: AS WE UNDERSTAND THE FACTS OF

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1 THE CASE, AND AS I SAID, THIS WAS NEVER PRESENTED,  
2 THERE ARE MINIMUM RESIDUALS. WE DIDN'T HAVE A  
3 PROBLEM THEN BECAUSE OF THE MINIMUM RESIDUALS. WE  
4 WON'T HAVE A PROBLEM NOW BECAUSE OF THE MINIMUM  
5 RESIDUALS. IF THE ONE-AND-A-QUARTER-INCH ENDED UP  
6 HAVING 13 PERCENT RESIDUALS, I CERTAINLY COULD NOT  
7 STIPULATE THAT, YOU KNOW, NOW AND FOREVER.

8 BOARD MEMBER JONES: THAT I UNDERSTAND.  
9 HE DOESN'T NEED A SOLID WASTE FACILITY PERMIT,  
10 THEN, TO PROCESS THIS MATERIAL THAT'S INCH-AND-A-  
11 QUARTER?

12 MS. NASH: AS THE FACTS --

13 BOARD MEMBER JONES: UNLESS IT GOES OVER  
14 10 PERCENT OR WHATEVER NUMBER? HE DOES NOT NEED  
15 TO GET A SOLID WASTE FACILITY PERMIT. HE CAN  
16 REPROCESS PROCESSED MATERIAL INCH-AND-A-QUARTER  
17 MINUS, AND YOU GUYS DON'T HAVE A PROBLEM WITH  
18 THAT?

19 MS. NASH: WE DON'T HAVE A PROBLEM WITH  
20 THAT AS IT STANDS TODAY, NO.

21 CHAIRMAN PENNINGTON: OKAY. SO THAT --  
22 IF YOU PUT NO. 5 INTO THE OPTION 2 --

23 MR. BLOCK: WOULD YOU LIKE ME TO JUST GO  
24 THROUGH IT AGAIN THEN ONE MORE TIME?

25 CHAIRMAN PENNINGTON: YES.

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1                   MR. BLOCK:    OKAY.    THE SUGGESTION THAT I  
2                   MADE, WHICH IS NOT A MOTION AT THIS POINT, WOULD  
3                   BE FOR THE BOARD TO ADOPT THE DRAFT FINDINGS AND  
4                   ORDER, WHICH IS IDENTIFIED IN THE CAPTION AS  
5                   OPTION NO. 2, WITH THE ADDITION, AND I WOULD SAY  
6                   ON PAGE 3 OF THAT ORDER, WE WOULD ADD PARAGRAPH  
7                   NO. 5 THAT WOULD BE GOING ON LINE 12 OF PAGE 3.

8                   AND THE ADDITIONAL PARAGRAPH WOULD  
9                   BE THE PARAGRAPH THAT RIGHT NOW IS LOCATED IN  
10                  DRAFT FINDINGS AND ORDER THAT I'VE IDENTIFIED AS  
11                  OPTION NO. 1 ON PAGE 3 OF THE PROPOSED ORDER  
12                  OPTION 1.   THERE'S A PARAGRAPH 5 ON PAGE 3 OF  
13                  THAT, BEGINS ON LINE 9, AND THAT PARAGRAPH WOULD  
14                  BE ADDED AS A NEW PARAGRAPH 5 TO THE DRAFT ORDER  
15                  OPTION 2 WITH THE CHANGE IN THE THIRD SENTENCE  
16                  WHICH NOW SAYS "PSF'S STORAGE OF THE 4-INCH  
17                  MATERIAL IS SUBJECT TO THOSE REGULATIONS," AND  
18                  THEY WERE REFERRED TO EARLIER AS EMERGENCY  
19                  REGULATIONS, WHICH ARE LOCATED AT TITLE 14,  
20                  CALIFORNIA CODE OF REGULATIONS, SECTION 17850

ET

21                 SEQ.   THAT SENTENCE WOULD JUST BE CHANGED TO  
SAY,  
22                 "THE STORAGE OF THE ONE-AND-A-QUARTER-INCH  
23                 MATERIAL."

24                 BOARD MEMBER GOTCH:   QUESTION.   DOES

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THIS

25

ANYWHERE ADDRESS THE 4-INCH MATERIAL?

1                   MR. BLOCK:   THE OPTION NO. 2 SAYS THE  
2                   4-INCH MATERIAL IS --

3                   BOARD MEMBER GOTCH:   OKAY.   SEE IT.

4                   MR. BLOCK:   -- WOULD BE A TRANSFER  
5                   PROCESSING STATION.   OPTION NO. 2 UPHOLDS THE  
6                   HEARING PANEL DECISION.   AND SO THE SUGGESTION  
7                   THAT I WAS MAKING WAS --

8                   BOARD MEMBER GOTCH:   I UNDERSTAND.

9                   CHAIRMAN PENNINGTON:   MR. JONES, GO  
10                  AHEAD.

11                  BOARD MEMBER JONES:   THEN IT GETS BACK TO  
12                  THE ISSUE OF HOW LONG DOES HE HAVE TO ABATE THE  
13                  4-INCH.   DOES HE HAVE TO GET A PERMIT, OR CAN HE  
14                  ABATE THE 4-INCH MATERIAL?   AND HOW LONG DOES HE  
15                  HAVE TO ABATE IT?

16                  MR. BLOCK:   THE HEARING PANEL DECISION  
17                  RIGHT NOW PROVIDES THAT HE -- LET'S DO THIS  
18                  SPECIFICALLY.   IT'S TAB 11, PAGE 2 OF THE HEARING  
19                  PANEL DECISION, STARTING ON LINE 19 -- ACTUALLY  
20                  STARTING ON LINE 20 AFTER SAYING THE ORDER IS TO  
21                  CLEAN UP AND ABATE ALL GREEN MATERIAL/WASTE 4-  
INCH

22                  MINUS.   THE SECOND SENTENCE SAYS SPECIFICALLY TO  
23                  PROCESS AND/OR REMOVE ALL STOCKPILES CONTAINING  
24                  GREEN MATERIAL WASTE MIXED WITH SOLID WASTE 4-  
INCH



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25 MINUS THAT HAVE NOT PREVIOUSLY BEEN PROCESSED.

1           THIS ACTION MUST BE COMPLETED BY MARCH 30, 1997.

2                       SO HE WOULD BE ABLE TO PROCESS, AND  
3           THERE'S A TIME LIMIT FOR WHEN THE -- PROCESS  
4           AND/OR REMOVE, BUT THERE'S A TIME LIMIT FOR WHEN  
5           HE HAS TO COMPLETE THAT ACTION.

6                       BOARD MEMBER GOTCH:   WHICH IS OVER.

7                       MR. BLOCK:   WHICH IS OVER.   AND THE  
8           OPTION NO. 2, ON PAGE 3, OF THE ORDER OR PARAGRAPH  
9           THAT SAYS THE MATTER IS REMANDED TO THE HEARING  
10          PANEL SO THAT IT MAY TAKE ANY NECESSARY APPRO-  
11          PRIATE MODIFICATIONS TO COMPLIANCE DATES SET FORTH  
12          IN THAT DECISION WHICH WERE STAYED PENDING THIS  
13          APPEAL AND WHICH HAVE EXPIRED WHILE THE APPEAL WAS  
14          PENDING.   SO BASICALLY ALLOWING THE HEARING PANEL  
15          TO MOVE THAT DATE BACK.

16                      MR. CHANDLER:   LET ME JUST -- AGAIN, I  
17          THINK WE'RE DOING GOOD HERE, SO LET'S HOLD  
18          TOGETHER.   IF YOU GO TO YOUR AGENDA ITEM AND YOU  
19          LOOK AT NO. 2, IT SAYS, "SHOULD THE BOARD DECIDE  
20          TO UPHOLD THE HEARING PANEL, THE ORDER THAT  
21          UPHOLDS THE HEARING PANEL, THAT ORDER SHOULD  
22          ALSO -- I'M AT THE TOP OF PAGE 11 IN YOUR AGENDA  
23          ITEM -- THAT ORDER SHOULD ALSO ADJUST THE TIME  
24          ALLOWED TO REMOVE AND/OR PROCESS THE 4-INCH  
25          MATERIAL."

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1                   SO AS ELLIOT HAS GUIDED YOU IN YOUR  
2                   OPTIONS IN YOUR AGENDA ITEM, SHOULD YOU ADOPT THE  
3                   OPTION THAT UPHOLDS THE HEARING PANEL, BECAUSE THE  
4                   DATE HAS PASSED TO ABATE THE 4-INCH MATERIAL, HE  
5                   IS SUGGESTING TO YOU THAT YOUR ORDER, IN ADOPTING  
6                   THIS ORDER, SHOULD YOU CHOOSE TO DO THAT, ADDRESS  
7                   THIS TIME ISSUE THAT MS. GOTCH IS JUST RAISING.  
8                   AND IT'S, I THINK, CLEARLY LAID AT THE TOP OF PAGE  
9                   11 THE GUIDANCE THAT YOU ARE BEING GIVEN THERE.

10                  THE ORDER SHOULD ALSO ADJUST THE  
11                  TIME ALLOWED TO REMOVE AND/OR PROCESS THE 4-INCH  
12                  MATERIAL, WHICH IS ALREADY PAST, TO A REASONABLE  
13                  ABATEMENT PERIOD TIME. THE NOTICE AND ORDER OF  
14                  THE HEARING PANEL DECISION ALLOWED APPROXIMATELY  
15                  FIVE WEEKS. SO YOU CAN KIND OF WORK WITH THAT  
16                  IDEA.

17                  CHAIRMAN PENNINGTON: SO WE CAN STATE IN  
18                  HERE THE TIME PERIOD?

19                  MR. CHANDLER: I THINK, AS HE IS  
20                  INDICATING, THAT YOU SHOULD ADJUST THE ORDER TO BE  
21                  SPECIFIC ON WHAT YOU WANT BECAUSE IT HAS ELAPSED.

22                  MR. BLOCK: LET ME JUST ADD TO THAT. I  
23                  BELIEVE THAT IF YOU'RE SIMPLY SAYING THAT THE  
24                  HEARING PANEL WOULD BASICALLY ADJUST SO THAT IT IS  
25                  THE SAME TIME PERIOD, JUST ADJUST THE DATES, BUT

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1 THE SAME APPROXIMATE TIME PERIOD FROM THE ISSUANCE  
2 OF THE ORDER, THAT WORKS IF YOU ARE UPHOLDING THE  
3 HEARING PANEL DECISION. BUT IF YOU WANTED TO  
4 ACTUALLY CHANGE THAT TIME PERIOD, AGAIN, YOU WOULD  
5 HAVE TO BE DECIDING THAT THE HEARING PANEL  
6 DECISION DID NOT GIVE AN APPROPRIATE TIME. AND SO  
7 YOU WOULD NEED TO BE OVERTURNING AT LEAST THAT  
8 PORTION OF THE HEARING PANEL DECISION AND THAT  
9 WOULD HAVE TO BE BASED ON EVIDENCE IN THE RECORD  
10 AND THE LIKE. AND WE HAVEN'T HAD ANY DISCUSSION  
11 TODAY ABOUT WHETHER FIVE WEEKS WAS AN APPROPRIATE  
12 TIME OR NOT. SO A LITTLE BIT OF A WRINKLE.

13 BOARD MEMBER JONES: FIVE WEEKS TO REMOVE  
14 SIX ACRES.

15 MS. TOBIAS: I WILL SAY ON THAT I AGREE  
16 WITH MR. BLOCK ON THAT. I DO THINK THAT IN OUR  
17 REGULATIONS SECTION 18304 UNDER NOTICE AND ORDERS,  
18 THAT IT DOES INDICATE THAT THE LEA HAS TO SET A  
19 REASONABLE TIME TO DEAL WITH THIS. SO I THINK IF  
20 THE BOARD WANTED TO SUGGEST TO THE LEA THAT A  
21 REASONABLE TIME MIGHT BE SOME OTHER DATE, THAT YOU  
22 WOULD BE WITHIN THE PURVIEW OF THAT. SINCE YOU'RE  
23 REMANDING IT TO THE LEA, IT'S THEIR DECISION.  
24 THEN IF THAT WAS DISAGREED WITH, IT WOULD HAVE TO  
25 COME BACK IF SOMEBODY WANTED TO CHALLENGE IT.

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1                   CHAIRMAN PENNINGTON:   SO HOW DO WE DO  
2           THAT?

3                   BOARD MEMBER RELIS:   BUILD THAT INTO THE  
4           MOTION.

5                   MS. TOBIAS:   I THINK YOU JUST BUILD IT  
6           INTO THE MOTION.

7                   MR. BLOCK:   OPTION NO. 2 AS STATED RIGHT  
8           NOW SIMPLY REMANDS IT BACK TO THE HEARING PANEL TO  
9           SET A NEW DATE OR NEW REASONABLE DATE, AND IT  
10          DOESN'T GIVE ANY TIME FRAME.   SO IF THE BOARD IS  
11          COMFORTABLE SIMPLY SENDING IT BACK TO THE HEARING  
12          PANEL TO ADJUST THOSE DATES, AND MY PRESUMPTION  
13          WOULD BE THAT IT'S PROBABLY GOING TO BE SAME  
14          APPROXIMATE TIME PERIOD, YOU WOULDN'T NEED TO  
15          CHANGE ANYTHING.   AND THE SUGGESTION THAT I HAD  
16          MADE, IF THE BOARD WANTED TO HAVE SOME DIFFERENT  
17          DATES, THEN YOU WOULD NEED TO SPECIFY THAT SOMEHOW  
18          AND THE BASIS FOR THOSE DATES IF YOU WANTED TO DO  
19          THAT TODAY.

20                   BOARD MEMBER RELIS:   WELL, SPEAKING AS  
21          THE SPRAWLING MOTION, MAKER OF THE SPRAWLING  
22          MOTION, I DON'T HAVE A PROBLEM.   REASONABLE TIME  
23          IS IMPORTANT.   I MEAN FIVE WEEKS IS A -- SO I  
24          DON'T HAVE ANY PROBLEM STATING LIKE 90 DAYS.   THAT  
25          WOULD BE ACCEPTABLE IF THAT'S A STATEMENT OF



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1 INTENT FROM US. I DON'T KNOW WHAT -- I DON'T  
2 THINK YOU COULD GET IT DONE PRACTICALLY NO MATTER  
3 WHAT YOU ATTEMPT TO DO. I MEAN YOU HAVE TO BE  
4 REASONABLE ON THIS.

5 MS. NASH: SINCE THERE HASN'T BEEN ANY  
6 DISCUSSION ON THIS, I DON'T MEAN TO INTERRUPT, BUT  
7 I DO WANT TO INDICATE THAT THE HEARING PANEL HAD A  
8 LONG DISCUSSION ON THE REASONABLE TIME. MR.  
9 MEIJER INDICATED THAT HE COULD GET IT DONE WITHIN  
10 30 DAYS, THAT THAT WOULDN'T BE ANY PROBLEM.  
11 BECAUSE OF THE POSSIBILITY OF IT STILL RAINING,  
12 THE HEARING PANEL CAME UP WITH 60 DAYS. THAT WAS  
13 WHERE THAT TIME CAME UP WITH.

14 THERE WAS NO RAIN, AND IT WAS NOT  
15 CLEANED UP. WHAT THE LEA IS WILLING TO DO,  
16 BECAUSE WE DON'T THINK THAT OTHER THAN OVERTURNING  
17 THE DECISION OF THE HEARING PANEL, THAT IT CAN BE  
18 SENT BACK WITH DIRECTION, IS WE ARE WILLING TO DO  
19 WHAT WE HAVE DONE WITH OTHER OPERATORS IS ENTER  
20 INTO A STIPULATED JUDGMENT FOR INJUNCTION OUTSIDE  
21 OF THIS HEARING PANEL. IT WOULD NOT BE PART OF  
22 THIS HEARING PANEL AT ALL. IT WOULD NOT BE PART  
23 OF THE LEA WHERE HE WOULD AGREE TO A REASONABLE  
24 TIME TO REMOVE THE MATERIAL, AS HE AGREED TO A  
25 REASONABLE TIME AT THE HEARING TO REMOVE THE

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1 MATERIAL.

2 AND THE STIPULATED JUDGMENT WOULD  
3 INDICATE THAT IF HE DID NOT REMOVE THAT MATERIAL  
4 IN THAT AGREED UPON REASONABLE TIME, THEN HE WOULD  
5 CEASE DOING HIS OPERATION. NOT ONLY THE 4-INCH  
6 MATERIAL BECAUSE, YOU KNOW, THAT'S THE ONLY WAY WE  
7 HAVE TO ASSURE THAT HE WILL, IN FACT, PROCESS THE  
8 MATERIAL AND FINISHING IT. BECAUSE HE INDICATED  
9 AT ONE TIME THAT HE COULD DO IT, AND HE SIMPLY  
10 DIDN'T DO IT. SO THAT I DON'T THINK THAT IT'S A  
11 MATTER OF NOT HAVING A REASONABLE AMOUNT OF TIME.  
12 I THINK IT'S A MATTER OF COMPLIANCE THAT'S AT  
13 ISSUE HERE.

14 CHAIRMAN PENNINGTON: WELL, MR. RELIS,  
15 YOU HAVE A MOTION ON THE FLOOR.

16 BOARD MEMBER RELIS: I HAVE A MOTION THAT  
17 INCLUDES THE PARAGRAPH 5 MENTIONED.

18 CHAIRMAN PENNINGTON: YOU WOULD LIKE TO  
19 ALTER YOUR MOTION.

20 BOARD MEMBER RELIS: YES, TO INCLUDE --  
21 ELLIOT, WOULD YOU RECITE THAT AGAIN SO WE GET IT  
22 VERY SPECIFICALLY.

23 MR. BLOCK: I THINK THE ORIGINAL MOTION  
24 THAT WAS ON THE FLOOR WAS JUST SIMPLY TO UPHOLD  
25 THE HEARING PANEL DECISION. OKAY. AND THEN ONE

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1 MORE TIME. IN DRAFT FINDINGS AND ORDER OPTION 2  
2 ON PAGE 3, THERE WOULD BE -- STARTING AT LINE 12,  
3 THERE WOULD BE AN ADDITION OF A PARAGRAPH NO. 5,  
4 AND THAT PARAGRAPH WOULD SAY, AND MAYBE I'LL JUST  
5 READ THE WHOLE PARAGRAPH. I THINK THAT'S THE  
6 EASIEST WAY TO DO THIS.

7 CHAIRMAN PENNINGTON: GOOD IDEA.

8 MR. BLOCK: THE ADDITIONAL PARAGRAPH  
9 WOULD SAY, "THE CIWMB RECENTLY ADOPTED REGULATIONS  
10 THAT SUBJECT THE STORAGE OF ORGANIC MATERIAL TO  
11 CERTAIN SPECIFIED MINIMUM STANDARDS. THE  
12 EFFECTIVE DATE OF THOSE REGULATIONS WAS APRIL 7,  
13 1997, AFTER THE ISSUANCE OF THE HEARING PANEL  
14 DECISION. PSF'S STORAGE OF THE 4-INCH  
15 MATERIAL" -- EXCUSE ME. I WAS READING -- "PSF'S  
16 STORAGE OF THE ONE-AND-A-QUARTER-INCH MATERIAL IS  
17 SUBJECT TO THOSE REGULATIONS WHICH ARE LOCATED AT  
18 TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION  
19 17850 ET SEQ."

20 BOARD MEMBER RELIS: AND THAT THIS WOULD  
21 INCLUDE REFERENCE TO A REASONABLE TIME FRAME.

22 MR. BLOCK: THAT'S ALREADY IN. THAT'S IN  
23 OPTION 2.

24 CHAIRMAN PENNINGTON: IT'S ALREADY IN.

25 BOARD MEMBER RELIS: ALL RIGHT. THAT'S

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1            THEN THE MOTION.

2                    CHAIRMAN PENNINGTON:    OKAY.    IS THAT  
3            ACCEPTABLE TO THE SECOND?

4                    BOARD MEMBER CHESBRO:    YES.

5                    BOARD MEMBER JONES:    MAY I ASK A  
6            QUESTION?

7                    CHAIRMAN PENNINGTON:    ANY FURTHER  
8            QUESTIONS?    MR. JONES.

9                    BOARD MEMBER JONES:    MR. RELIS, THE -- I  
10            KNOW WE'RE TRYING TO UPHOLD THE LEA'S THING, AND I  
11            DON'T HAVE ANY PROBLEM WITH THAT.    BUT THE  
12            REASONABLE TIME FRAME AND THE EXPLANATION THAT THE  
13            ATTORNEY JUST GAVE, THAT MR. MEIJER HAD ALREADY  
14            AGREED TO 30 DAYS AND DIDN'T DO IT, AND IF HE  
15            DOESN'T AGREE TO A REASONABLE TIME PERIOD, THEY  
16            CAN SHUT HIM DOWN, ARE YOU --

17                    BOARD MEMBER RELIS:    WELL, THERE'S NO WAY  
18            TO UPHOLD THE LEA WITHOUT GIVING THEM LATITUDE.  
19            I'M NOT WISHING THAT OUTCOME.    AND I'M ASSUMING  
20            THAT IN TAKING ON FACE VALUE THAT THE LEA IS GOING  
21            TO ACT -- EXERCISE REASONABLE JUDGMENT BECAUSE  
22            IT'S NOT GOING -- THE PILE ISN'T GOING TO GO AWAY  
23            IF IT'S UNREASONABLE.    THAT'S MY TAKE ON IT.

24                    BOARD MEMBER JONES:    EXACTLY.    I THINK  
25            WE'RE TRYING TO UPHOLD THIS THING, AND I CONCUR



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1 WITH YOU, THAT WE NEED TO UPHOLD THIS. BUT WHEN  
2 THE ATTORNEY SAYS WE GAVE THEM 30 DAYS AND HE SAID  
3 HE COULD DO IT AND HE DIDN'T DO IT AND IF THAT  
4 HAPPENS AGAIN UNDER STIPULATED ORDER, WE'RE GOING  
5 TO SHUT THEM DOWN, I DON'T THINK 30 DAYS IS  
6 REASONABLE TO REMOVE THAT --

7 BOARD MEMBER RELIS: WELL, I THINK THAT  
8 THE OPERATING LANGUAGE, EVEN IN THE NOTICE AND  
9 ORDER OR THE DECISION ON THE APPEAL WAS FIVE  
10 WEEKS, WASN'T IT?

11 MS. NASH: SIXTY DAYS. SIXTY DAYS.

12 BOARD MEMBER RELIS: SIXTY DAYS.

13 MS. NASH: TWO MONTHS.

14 BOARD MEMBER RELIS: SO AT THE LEAST IT  
15 WOULD BE THAT. AT THE TIGHTEST DRAW, IT WOULD BE  
16 60, AS I UNDERSTAND IT. AND I'M SURE IF PROGRESS  
17 IS BEING MADE, I MEAN THAT'S -- YOU WANT TO CLEAN  
18 UP THE SITE. SO YOU ARE NOT GOING TO GET IT  
19 CLEANED UP IF YOU DO SOMETHING STUPID.

20 BOARD MEMBER JONES: I HAVE ANOTHER  
21 QUESTION. THESE TIME FRAMES THAT WE'RE TALKING  
22 ABOUT HERE, DOES THIS MAKE SENSE?

23 MR. MARTINEZ: I OBVIOUSLY WASN'T PRIVY  
24 TO THOSE DISCUSSIONS. LET ME JUST SAY THIS. AT  
25 THAT PARTICULAR TIME WE HAD AN ONGOING BUSINESS.

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1 IT WAS OPERATING ON A DAILY BASIS, SCHEDULE,  
2 FEEDING SCHEDULE AND SO FORTH. WE HAVE LITERALLY  
3 STOPPED BECAUSE WE INTERPRETED THE ORDER THAT MR.  
4 FRAZEE READ JUST THAT, DON'T DO ANYTHING. SO NOW  
5 WE'RE LOOKING AT START-UP TIME. WE'RE ALSO  
6 LOOKING -- NOW WE'RE GETTING INTO A RAINY SEASON.

7 DO I THINK THAT THE TIME FRAME THAT  
8 WAS IDENTIFIED BY LEA WAS REASONABLE? ANSWER IS,  
9 NO, I DON'T. I DON'T THINK IT WAS REASONABLE. AM  
10 I CONFIDENT THAT THEY WILL BE? NO, I'M NOT  
11 CONFIDENT THAT THEY WILL BE.

12 IF YOU'RE ASKING ME IS THAT ENOUGH  
13 TIME, NO. BUT THE REAL QUESTION THAT I HAVE FOR  
14 YOU RIGHT NOW IS I'VE BEEN PART OF THE PROCESS OF  
15 RESOLUTIONS AND MOTIONS THAT EVOLVE THROUGH THE  
16 GOVERNMENTAL PROCESS AND LEGISLATIVE PROCESS, AND  
17 WE READ THEM THE NEXT DAY AND WE WONDER WHAT THE  
18 HECK WE DID. SO I'M JUST KIND OF WONDERING TODAY,  
19 IF YOU MOVE FORWARD WITH WHAT'S BEFORE YOU, DO WE  
20 STILL NEED A PERMIT TO CLEAN UP OUR SITE?

21 BOARD MEMBER JONES: I INTERPRET IT AS  
22 NO.

23 MR. MARTINEZ: I CERTAINLY WOULD LIKE  
24 THAT ON THE RECORD. ALSO THE INCH-AND-A-

QUARTER  
25 DOES NOT REQUIRE A PERMIT?

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1                   BOARD MEMBER JONES:   THEY SAID NO.  
2                   MR. MARTINEZ:   AND THAT'S FOR  
PROCESSING  
3                   ON SITE.  
4                   BOARD MEMBER JONES:   AND IT'S GOING  
TO BE  
5                   A RESIDUAL ISSUE AT THAT POINT.   IF THERE'S  
MORE  
6                   RESIDUAL THAN WHAT IS ACCEPTABLE, THEN IT  
DOES  
7                   NEED A PERMIT.   AND THAT'S FAIR.   THAT'S MORE  
THAN  
8                   FAIR.  
9                   MR. MARTINEZ:   NO PROBLEM.   WE JUST  
WANT  
10                  TO KNOW WHAT THE RULES ARE.  
11                  BOARD MEMBER JONES:   BUT I HAVE A  
PROBLEM  
12                  TOO WITH TRYING TO START UP AND CLEAN SIX  
ACRES,  
13                  SO THAT'S WHY I'M WORRIED ABOUT THIS  
REASONABLE  
14                  TIME FRAME BECAUSE I DON'T WANT TO TRY TO  
UPHOLD  
15                  AN LEA'S ORDER.   WE'RE ALL WORKING REAL HARD  
TO DO

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16           GOOD STUFF HERE AND HAVE SOMETHING OUT THERE  
THAT

17           COULD END UP OUT OF OUR CONTROL AND SNAP THIS  
18           THING IN TWO SECONDS.   THAT BOTHERS ME.

19                   CHAIRMAN PENNINGTON:   OKAY.

20                   MR. MARTINEZ:   JUST ONE MORE.

21                   CHAIRMAN PENNINGTON:   WE'VE GOT TO  
GET ON

22           TO VOTING.   WE'VE DEBATED THIS THING  
SUBSTANTIALLY

23           HERE, AND I THINK THE BOARD IS READY TO TAKE  
A

24           VOTE.   I THINK THE ATTORNEYS HAD A LOT TO SAY  
TOO.

25                   BOARD MEMBER JONES:   REASONABLE IS

1 UNDERSTOOD?

2 MS. NASH: REASONABLE IS UNDERSTOOD.

3 BOARD MEMBER JONES: IT'S IMPORTANT.

4 BOARD MEMBER FRAZEE: NOT TO BEAT A DEAD  
5 HORSE HERE, I AM STILL UNCOMFORTABLE WITH THIS  
6 LANGUAGE LEFT IN THE ORDER THAT CREATES THE  
7 PROBLEM FOR PROCESSING THE ONE AND A QUARTER  
8 MINUS. I GUESS MY ONLY SOLUTION FOR THAT IS TO  
9 ASK AGAIN FOR REPRESENTATIVES OF SAN BERNARDINO  
10 COUNTY TO STIPULATE THAT THOSE PORTIONS OF THE  
11 ORDER THAT I READ THAT RELATE TO PROCESSING OF THE  
12 INCH-AND-A-QUARTER MINUS MATERIAL ARE NOT  
13 AFFECTED.

14 MS. NASH: CORRECT.

15 CHAIRMAN PENNINGTON: OKAY. WE'RE GOING  
16 TO TAKE A VOTE HERE NOW. MS. KELLY, CALL THE  
17 ROLL.

18 BOARD SECRETARY: BOARD MEMBER CHESBRO.

19 BOARD MEMBER CHESBRO: AYE.

20 BOARD SECRETARY: FRAZEE.

21 BOARD MEMBER FRAZEE:

22 AYE.

23 BOARD SECRETARY: GOTCH.

24 BOARD MEMBER GOTCH: AYE.

25 BOARD SECRETARY: JONES.

BOARD MEMBER JONES: AYE.



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1                   BOARD SECRETARY: RELIS.

2                   BOARD MEMBER RELIS: AYE.

BOARD SECRETARY: CHAIRMAN PENNINGTON.

CHAIRMAN PENNINGTON: AYE. MOTION  
CARRIES.

I THINK THAT CONCLUDES THE APPEALS  
HEARING OF THE SAN BERNARDINO QUESTION. THANK YOU  
ALL FOR YOUR PATIENCE AND ALL THE VARIOUS  
TESTIMONY. ADJOURNED.

(THE MEETING WAS THEN ADJOURNED AT  
1:20 P.M.)

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